



# **PLANNING COMMITTEE REPORT**

**TO:** Planning Committee South

**BY:** Head of Development and Building Control

**DATE:** 23<sup>rd</sup> April 2024

**DEVELOPMENT:** Erection of 14 no. 2, 3 and 4 bedroom dwellings, including 4 bungalows with access from Smock Alley, vehicle parking, public open space, landscaping and a borehole.

**SITE:** Land West of Smock Alley, South of Little Haglands, West Chiltington

**WARD:** West Chiltington, Thakeham and Ashington

**APPLICATION:** DC/21/2007

**APPLICANT:** **Name:** C/O Agent **Address:** Tetra Tech, The Pavilion, Botleigh Grange Office Campus, Hedge End

**REASON FOR INCLUSION ON THE AGENDA:** More than eight persons in different households have made written representations within the consultation period raising material planning considerations that are inconsistent with the recommendation of the Head of Development and Building Control.

The proposal represents a departure from the Development Plan.

At the request of Councillor Manton.

**RECOMMENDATION:** To approve full planning permission subject to appropriate conditions and the completion of a Section 106 Legal Agreement. In the event that the legal agreement is not completed within four months of the decision of this Committee, the Director of Place be authorised to refuse permission on the grounds of failure to secure the obligations necessary to make the development acceptable in planning terms.

## **1. THE PURPOSE OF THIS REPORT**

To consider the planning application.

### **DESCRIPTION OF THE APPLICATION**

- 1.1 The application seeks full planning permission for the erection of up to 14 No. dwellings (including 4 bungalows) with associated access, landscaping, parking and open space. As amended, the proposal includes a borehole to the north east part of the site and an associated water treatment plant to the southern boundary of the site. The site is divided horizontally by a retained hedge. To the north of hedge, the proposal includes 6 detached dwellinghouses, each with their own garage and garden. To the south of the hedge, the

proposal includes 8 dwellings, comprising 3 detached houses (each with their own garage), one pair of semi-detached houses and a small terrace of three dwellings. 5 of the 14 dwellings proposed would be affordable units (equivalent to 35%).

- 1.2 The proposed development would be accessed from Smock Alley with a new vehicular access point proposed from Smock Alley to the east side of the site. An attenuation pond is proposed to the south eastern corner of the site. There is extensive woodland to the west of the site, which is indicated as being within the ownership of the applicant. This area is not part of the proposal and is to be retained as a wooded area.

#### DESCRIPTION OF THE SITE

- 1.3 The application site lies to the north east of West Chiltington Common and is situated adjacent to the built-up area boundary of West Chiltington to the south and east. West Chiltington is identified as a Medium Village in the settlement hierarchy of the Horsham District Planning Framework 2015.
- 1.4 The site extends to an area of approximately 1.3 hectares and is currently formed by an open field of rough grassland. There is an expanse of woodland, known as Haglands Copse, to the west of the site. This area of woodland is covered by a Tree Preservation Order. The site currently consists of sloping fields and is divided into two parcels by a mature hedgerow running east to west. The site boundaries are formed by existing trees and hedgerows, with a large dense patch of trees along the west, providing a strong green edge to the site.
- 1.5 This area has retained a rural feel with a verdant setting. The ground level of the site slopes up fairly significantly, by around 10m across the site, from the level of Smock Alley towards the woodland at the western boundary. There is an existing dwelling to north west corner of the site, Little Hagland, which fronts Haglands Lane. The nearest residential properties are otherwise located immediately to the south of the site with residential curtilages that directly abut the southern site boundary. To the east of the site, there are a number of properties fronting Smock Alley which face the site across the road. A Grade II listed building at Old Haglands is located to the north west of the site on Haglands, opposite Haglands Copse.
- 1.6 The site is within the 'bat sustenance zone'. This is consideration for ecological impacts for developments related to The Mens Nature Reserve and Ebernoe Common Nature Reserve, which are both classed as Special Areas of Conservation, within the district of Chichester. One of the special qualities of these areas is that they host protected species, including the Barbastelle and Bechstein's bats, which use the bat sustenance zone.

## 2. INTRODUCTION

#### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

#### RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

#### 2.2 **National Planning Policy Framework**

#### 2.3 **Horsham District Planning Framework (HDPF 2015)**

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 4 - Strategic Policy: Settlement Expansion

Policy 15 - Strategic Policy: Housing Provision

Policy 16 - Strategic Policy: Meeting Local Housing Needs

Policy 24 - Strategic Policy: Environmental Protection  
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character  
Policy 26 - Strategic Policy: Countryside Protection  
Policy 27 - Settlement Coalescence  
Policy 30 - Protected Landscapes  
Policy 31 - Green Infrastructure and Biodiversity  
Policy 32 - Strategic Policy: The Quality of New Development  
Policy 33 - Development Principles  
Policy 34 - Cultural and Heritage Assets  
Policy 35 - Strategic Policy: Climate Change  
Policy 36 - Strategic Policy: Appropriate Energy Use  
Policy 37 - Sustainable Construction  
Policy 38 - Strategic Policy: Flooding  
Policy 39 - Strategic Policy: Infrastructure Provision  
Policy 40 - Sustainable Transport  
Policy 41 - Parking

#### 2.4 **Horsham District Local Plan (2023-40) (Regulation 19)**

Policy 1: Sustainable Development  
Policy 2: Development Hierarchy  
Policy 3: Settlement Expansion  
Policy 6: Climate Change  
Policy 7: Appropriate Energy Use  
Policy 8: Sustainable Design and Construction  
Policy 9: Water Neutrality  
Policy 10: Flooding  
Policy 11: Environmental Protection  
Policy 12: Air Quality  
Policy 13: The Natural Environment and Landscape Character  
Policy 14: Countryside Protection  
Policy 15: Settlement Coalescence  
Policy 17: Green Infrastructure and Biodiversity  
Policy 19: Development Quality  
Policy 20: Development Principles  
Policy 21: Heritage Assets and Managing Change within the Historic Environment  
Policy 23: Infrastructure Provision  
Policy 24: Sustainable Transport  
Policy 25: Parking  
Policy 27: Inclusive Communities, Health and Wellbeing  
Policy 37: Housing Provision  
Policy 38: Meeting Local Housing Needs  
Policy 39: Affordable Housing  
Policy 40: Improving Housing Standards in the District

#### 2.5 **West Sussex Joint Minerals Local Plan (2018)**

Policy M9 - Safeguarding Minerals

2.6 **Relevant Neighbourhood Plan:** West Chiltington Parish submitted their Submission draft plan to Horsham District Council on 19 November 2018. The emerging West Chiltington Neighbourhood Plan carries relatively limited weight as it is currently 'paused' because of Water Neutrality.

#### 2.7 **Other Relevant Guidance and Policies:**

- Planning Obligations and Affordable Housing Supplementary Planning Document (2017)
- Community Infrastructure Levy (CIL) Charging Schedule (2017)

- Supplementary Planning Guidance (September 2020) - revised county parking standards and transport contributions methodology
- Air Quality and Emissions Mitigation Guidance for Sussex (2020)
- Planning Advice Note: Biodiversity and Green infrastructure (2022)
- Planning Advice Note: Facilitating Appropriate Development (2022)

#### PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/14/2248	Outline planning application for the development of 21 dwellings (13 market and 8 affordable) with access from Smock Alley, vehicle parking, public open space (including balancing pond and 1.5 hectares of woodland), wildlife corridors, landscaping and upgrading of public footpath to village centre	Application Refused on 25.03.2015. A subsequent appeal was dismissed.
DC/15/1389	Outline planning application for up to 19 dwellings with access from Smock Alley, landscaping, parking, public open space and a new public footpath link.	Application Refused on 17.09.2015. A subsequent appeal was dismissed.

### 3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

#### INTERNAL CONSULTATIONS

- 3.2 **HDC Arboriculturist:** Comment (summarised).  
Whilst there will be some impacts on trees from the creation of the access, the proposal reasonably respects the bounding hedgerow tree constraints. If minded to approve, conditions are recommended relating to the submission of details of underground services and a requirement for the tree protection measures to be in place prior to works commencing.
- 3.3 **HDC Drainage:** No objection subject to suitable drainage conditions.
- 3.4 **HDC Ecology:** No objection subject to the following conditions (summarised):
- All works to be carried out in accordance with Biodiversity Net Gain Assessment and Ecological Appraisal Addendum.
  - Submission of a copy of the mitigation licence for badgers or proof that a licence is not required.
  - Submission of a Biodiversity Construction Environment Management Plan.
  - Submission of a Biodiversity Enhancement Layout.
  - Submission of a Landscape and Ecological Management Plan.
  - Submission of a Wildlife Sensitive Lighting Design Scheme.
- 3.5 **HDC Environmental Health:** No objection subject to the following conditions (summarised):
- Submission of an Air Quality Mitigation strategy.
  - Submission of details of the treatment of the water abstracted from the borehole.
  - Submission of details of a Private Water Supply Management Plan.
  - Submission of details of sampling of the water abstracted from the borehole.
  - Submission of risk assessment compliant with regulation 6 of the Private Water Supplies (England) Regulation 2016.
  - Submission of a scheme to deal with risks associated with contamination.
  - Submission of Construction Management Plan.
- 3.6 **HDC Heritage:** Comment (summarised).  
The proposal will lead to less than substantial harm at the lower end of the scale to the setting of Grade II listed Old Haglands. This harm should be weighed against the public benefits of

the proposal. It is the Senior Conservation Officer's view that the harm will not be outweighed by the public benefit where this benefit can be provided elsewhere without harm to designated assets.

- 3.7 **HDC Housing:** Comment (summarised).  
The proposal is policy compliant with 35% affordable housing. Details are required regarding the tenure split.
- 3.8 **HDC Landscape Officer:** No objection (summarised)  
No objection subject to a condition requiring advanced planting along the boundary of Smock Alley and the submission of a Landscape Specification.

#### OUTSIDE AGENCIES

- 3.9 **Natural England:** No objection.
- 3.10 **Southern Water:** Comments (summarised):
- Investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.
  - Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance.
  - Should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
- 3.11 **WSCC Fire Services:** Comment (summarised).  
Conditions are recommended requiring details to be submitted showing locations of fire hydrants.
- 3.12 **WSCC Local Lead Flood Authority:** No objection.
- 3.13 **WSCC Highways:** No Objection  
No objection subject to the following conditions (summarised):
- Provision of the access in accordance with approved details.
  - Provision of the visibility splays prior to first occupation.
  - Provision of vehicle parking and turning spaces.
  - Submission of details of cycle parking.
  - Submission of Construction Management Plan.

#### PUBLIC CONSULTATIONS

- 3.14 **West Chilton Parish:** Objection (summarised).
- It is noted that although the site is included in both HDC's Draft Local Plan and the West Chilton Draft Neighbourhood Plan, both are still subject to further public consultation. As such it feels that the application is premature and any approval at this time would significantly undermine an important democratic process.
  - Any future iteration of the application's proposals should include a re-siting of the water treatment plant room away from the boundary of existing neighbouring properties.
  - The parish questions the applicant's borehole solution as there is huge uncertainty about its sustainability and longevity. There is concern that, if found acceptable, this will set a precedent for further boreholes.

- The parish refer to policies in their draft plan in relation to climate change, ecology, housing types, pedestrian access and the woodland to the west of the site.

3.15 **Sussex Bat Group:** Comment (summarised).

Concern is raised regarding the surveys undertaken. It is noted that mitigation plans included consideration to lighting, however, the Bat Group would suggest that there should be a generous buffer to protect the tree-lines and woodland edges most used by the bats.

3.16 **184** objections from **101 addresses** have been received for this proposal, including one letter of objection from the Campaign to Protect Rural England. The grounds of objections are summarised as follows:

- Concern is raised that the reinstatement of the pumping station at Smock Alley to help the water shortages at Hardham pumping station will affect any proposed use of a borehole as a viable for the water supply of 14 proposed houses on the application site. The drilling of the borehole has caused noise disturbance.
- Concern is raised to the proposed water treatment plant and borehole. These features will have a negative visual impact and will impact on residential amenity. Concern is raised regarding the management of the water treatment and borehole.
- Lack of infrastructure.
- Increase in pollution.
- This approval will set an unwanted precedent.
- Impact on wildlife. The proposal to relocate protected wildlife is unacceptable. The adjoining woodland is a priority habitat. The surveys undertaken are out of date.
- Impact on 'strategic gap'.
- The proposal will impact negatively on the street scene. The visibility splay will remove a large area of vegetation and lose any screening effect to the proposed housing estate. The design of the houses is imposing.
- The proposal results in harm to the nearby listed building.
- Concern is raised over the management of the SUDs on site.
- The proposal should be carbon neutral.
- The biodiversity credentials of the site are challenged.
- Impact on pedestrians and cyclists.
- The proposal needs to include larger buffer zones.
- The affordable housing is insufficient.
- The inclusion of this site in the draft neighbourhood plan is questioned.
- General impact on local residents. The houses will be overbearing on adjacent residents and will result in a loss of privacy and noise disturbance. The site has a large steep slope rising up 11 meters to the west by the protected woodland, any development of this site will cause overbearing harm on Lavender Cottage and the surrounding houses. This was cited by the Planning Inspector previously on the dismissed appeals.
- No footpaths have been provided on site or connection to the school (over 1.5 miles away) and local shops and very restricted public transport 1 mile away. Any access would be on unlit roads without footpaths – how is this a sustainable development?
- Parking is insufficient for the development.
- The proposal will lead to light pollution.
- The proposal includes a number of inaccuracies. The claim that the scheme cannot be seen from adjacent rights of way is inaccurate.
- Increased traffic impact. The submitted highway details is misleading and inaccurate. The roads here are narrow with no verges. Additional traffic would be dangerous.
- A nearby resident has submitted their own traffic survey of the area. This shows that the volume of traffic is excessive and damaging for such small lanes.
- Permission has been turned down twice for the development of this site at appeal.
- The proposal is unacceptable in principle being outside the Built Up Area Boundary and contrary to the Council's spatial strategy.

- Lack of adequate drainage for the proposal. There is concern regarding flooding on nearby roads.
- Loss of greenspace. This development should be to a brownfield area.
- Now that the government has changed its approach to building in the countryside with its Levelling-Up and Regeneration Bill, which stresses the importance of building on Brownfield sites, it is hoped that HDC will be in favour of protecting this site.
- Overdevelopment of the area.
- Loss of trees and general landscape impact.

3.17 **Campaign to Protect Rural England:** Objections (summarised):

- Notwithstanding the absence of a 5-year land supply, including for affordable housing, the harm given to this proposal would significantly and demonstrably outweigh the benefits and there were no material considerations sufficient to justify a decision otherwise.
- The Local Plan Review and the draft West Chiltonington Neighbourhood Plan are yet to be made and yet form policy.
- The current proposal is contrary to the Council's strategic plan and policies within the HDPF.
- The applicant's Ecological Appraisal does not take in to account the impact of recreational usage on the proposed natural areas/wildlife buffers/wildlife areas, and neither does the applicant's Biodiversity Net Gain Assessment.
- The proposal would result in an urbanising impact.

3.18 **2** letters of support have been received on the grounds that this would make an ideal site for housing.

3.19 **Andrew Griffiths MP** has commented as follows (summarised):

- The site is reportedly of significant ecological value with protected bat species, dormice etc. The application must be considered in light of an up-to-date ecology survey.
- The roads here are narrow adjacent to the site. There are limited passing places with no verges or footways. Surveys should be undertaken.
- The delivery of borehole to supply potable water cannot be determined with certainty as any property can request to be connected to the mains.

#### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS AND EQUALITY**

4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

#### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

#### **6. PLANNING ASSESSMENTS**

6.1 The key issues for consideration in the determination of this application are as follows:

- The Principle of Development
- Impact on the Character and Appearance of the Surrounding area
- Impact on Heritage Assets
- Impact Upon the Amenities of Nearby and Future residents
- Housing Mix & Affordable Housing Provision
- Highway Impacts
- Ecology
- Water Neutrality
- Climate Change
- Drainage, Land Contamination, Air Quality and Minerals Safeguarding
- Planning Balance and Conclusion

**Background:**

6.2 It's important to note that there have been two previous applications relating to this site, both of which were refused and dismissed at appeal (DC/14/2248 & DC/15/1389). The two applications are outlined below. These decisions are material considerations in the determination of the current proposal.

DC/14/2248:

6.3 This application proposed outline permission for 21 dwellings with access from Smock Alley. The application site for this proposal related to the lower field only at Smock Alley. The current proposal includes both fields facing Smock Alley. The application was refused on the 23<sup>rd</sup> March 2015 for the following reasons (summarised):

1. The site by reason of its location, limited accessibility to sustainable modes of transport, distance to local services and reliance on the private car is considered to be unsustainable and does not therefore accord with the presumption in favour of sustainable development.
2. The site is currently an agricultural field forming a steep slope and is bounded to the west by an area of woodland subject to a TPO Order. Given the site characteristics the development is considered to isolate the woodland area to the west and result in a prominent form of development which would result in significant landscape harm.
3. Lack of legal agreement to secure the affordable housing units.

6.4 The subsequent appeal of the above refusal was dismissed by the Planning Inspector in December 2015, on the following grounds:

- *'While the appeal proposal does not conflict with the spatial strategy of the HDPF as a matter of principle, on the fundamental issues of design, landscape character and effect on living conditions, the layout proposed does conflict with the relevant HDPF policies. Since the delivery of the spatial strategy requires compliance with other policies setting out detailed requirements to be met by all development the proposal therefore conflicts with the development plan as a whole. I do not consider that this conflict would be outweighed by any shortfall in the five year housing land supply particularly as Framework paragraph 56 states that good design is a key aspect of sustainable development and is indivisible from good planning.'*

DC/15/1389:

6.5 This application proposed outline permission for 19 dwellings with access from Smock Alley. Again, the proposal was to the lower field only. The layout of this proposal was similar to



that of DC/14/2248. The application was refused on the 17<sup>th</sup> September 2015 for the following reasons (summarised):

1. The proposed development would be located outside of a built-up area boundary on a site not allocated for development within the emerging Horsham District Planning Framework, or an adopted Neighbourhood Development Plan. The proposed development would therefore be inconsistent with the overarching strategy for development set out within the emerging Horsham District Planning Framework.
2. The proposed development would, by virtue of its location, have limited accessibility to sustainable modes of transport and access to local services, and residents would have a reliance upon the private car. The proposal is therefore considered to be unsustainable development that would not accord with the requirements of the National Planning Policy Framework or the presumption in favour of sustainable development.
3. The site is currently an open field and forms a steep slope leading up to an area of woodland adjacent to the western boundary, which is subject to a Tree Preservation Order. The characteristics of the site are such that it is considered that the proposed development would isolate the woodland area to the west and create a prominent form of development which would result in significant landscape harm.
4. Lack of legal agreement to secure the affordable housing units and infrastructure improvements.

6.6 The subsequent appeal of the above refusal was dismissed by the Planning Inspector in November 2016, on the following grounds:

*'Paragraph 12 of the Framework makes it clear that the Framework does not change the statutory status of the Development Plan and advises that proposed development that conflicts with an up-to-date plan should be refused unless other material considerations indicate otherwise. Proposals are not sustainable development if they conflict with an up to date plan and there are no material considerations of sufficient weight, including the positive benefits of the scheme, to indicate the decision should be otherwise. I have identified that the scheme would conflict with the spatial strategy in the HDPF and would conflict with policies 2, 3, 4 25 and 26. The Development Plan is up-to-date and addresses the issues at the heart of this proposal. The conflict with the plan is therefore of significant weight and would result in development that would have a significant adverse environmental impact. On this basis the proposal would not be sustainable development and should not be supported.'*

**Principle of the Development:**

- 6.7 The site is located outside of the defined built-up area boundary (BUAB) of West Chiltington Common, and does not form part of Horsham's adopted development plan comprising the Horsham District Planning Framework (HDPF), or a 'made' Neighbourhood Development Plan. As a result, residential development here would conflict with the requirements of Policies 1 and 2 of the HDPF as well as with Policy 4 'Settlement Expansion', and as such, in strict policy terms is not acceptable. In addition, the development would conflict with the countryside protection policy of the HDPF (Policy 26) owing to its siting outside the BUAB and as the proposed residential development is not considered to be essential to this countryside location.
- 6.8 Notwithstanding the above, the application site has been selected by West Chiltington Parish Council as a draft allocation in the forthcoming West Chiltington Neighbourhood Plan (2021-2031). The draft policy H2 allocates this site for 14 units (Policy H2, Site 2) with the policy criteria for the development of the site including the provision of 6 bungalows, 3 affordable dwellings, dwellings no more than 2 storeys high and adequate parking. Although included as an allocated site, this area is part of the 'Settlement Separation Zone' referred to in Policy H1 of the draft neighbourhood plan, which states that development proposals are supported

where they *'do not diminish the Settlement Separation Zone / Local Gap visually, perceptually or physically between West Chiltington Common and West Chiltington Old Village.'*

- 6.9 The current iteration of the West Chiltington Neighbourhood Plan has though only been through a Regulation 14 consultation and is therefore at an early state of preparation. The plan is currently on hold and cannot proceed to the next round of consultation and submission due to the wider issue of water neutrality within the district. The policies within the draft plan can therefore only carry very limited weight at this stage. With regards to the separation zone policy, this is at odds with the allocation of the Smock Alley site for development. However, it is important to note that the plan itself concedes the separation zone may be altered (page 55). In addition, the current plan is in draft and, if HDC were to recommend going forward with the plan, it's likely that amendments would be recommended including excluding this site from the separation zone designation altogether. Accordingly, given this discrepancy and the current status of the neighbourhood plan, both policies H1 and H2 cannot be given any appreciable weight at this stage.
- 6.10 The HDPF is now over 5 years old and a new local plan (the Horsham District local Plan (HDLP)) has been prepared and has recently progressed through Regulation 19 consultation stage. All representations received will be submitted to the Planning Inspectorate together with the Local Plan for independent examination later in the year. Submission is expected to take place in June this year (2024).
- 6.11 The HDLP sets out the emerging development strategy for the district to deliver housing and wider development needs in the period 2023 to 2040. This includes a continuation of the current settlement strategy which focuses growth within existing built-up area boundaries, with planned strategic extensions to settlements. This application site at Smock Alley is included as an allocation within the HDLP under Policy HA21.
- 6.12 Policy HA21 West Chiltington and West Chiltington Common Housing Allocations allocates this site for 15 homes. The policy (WCH2) states that development will be supported where proposals;
- a) Are designed to be sympathetic to the character of the area;
  - b) Take into account, through appropriate design and siting, the impact on trees protected by Tree Preservation Orders in the adjacent Haglands Copse.
- 6.13 In terms of the weight attributed to the HDLP, paragraph 48 of the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan. The more advanced its preparation, the greater the weight that may be given. The Regulation 19 consultation period for the HDLP has now ended and the Council's Strategic Planning team (at the time of writing this report) are in the process of collating all the responses ahead of formal submission to the Planning Inspectorate in the summer. As the plan has yet to be submitted for examination the weight to be applied to Policy HA21 is low to moderate only. Once the plan is submitted to the Inspector and is undergoing examination, it can be attributed moderate to substantial weight.
- 6.14 In January 2024, the Council published the latest Authority Monitoring Report (AMR) which revealed that the Council currently has a housing land supply of 2.9 years against current targets. In light of this, it is acknowledged that the Council is unable to demonstrate a full 5-year housing land supply, and it is recognised that this forms a material consideration in decision making which may trigger the application of the 'tilted balance' at Paragraph 11d of the NPPF, which presumes in favour of sustainable development. In accordance with Paragraph 11d, the Council is required to grant permission unless either (or both) of the following limbs apply:

- (i) the application of policies in this Framework that protect areas or assets of importance provides a clear reason for refusing the development proposed; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 6.15 According to Footnote 7 of the NPPF, the areas referred to in limb (i) above include habitat sites, and those listed in NPPF para 187 (including SSSIs, Green Belt, AONBs and National Parks). A determination on whether the tilted balance is engaged or not is dependent on whether the proposal is able to protect the areas of importance listed in Footnote 7.
- 6.16 In light of Natural England's requirement for all development in the Sussex North Water Supply Zone to demonstrate that it is 'water neutral' in order to protect the habitat sites within the Arun Valley designations, the Council (as the decision maker) is required to determine whether water neutrality has been demonstrated. If the proposal is unable to demonstrate water neutrality through mitigation (as tested by Appropriate Assessment), then the tilted balance of paragraph 11d is not engaged, and in accordance with limb (i) and paragraph 186(a) of the NPPF the application should be refused.
- 6.17 In this scenario, the presumption in favour of sustainable development would not apply and the remaining matters should be determined by the Council on a 'flat' basis. If the proposal can successfully demonstrate that it can operate without increasing water demand on the Sussex North Water Supply Zone, then the proposal will accord with limb (i), and the tilted balance is then engaged and must be applied in the determination of the remaining matters. An assessment of this application in light of Natural England's requirements for water neutrality is provided towards the end of this report.
- 6.18 Given the Council's inability to demonstrate a 5-year supply of deliverable housing sites and in recognition of the key objective of Government policy to significantly boost the supply of homes, the Council has adopted a Facilitating Appropriate Development (FAD, Oct 2022) document. This forms a material planning consideration in decision making. The advice contained in the FAD is guidance only and does not form policy and does not alter the statutory decision-making framework.
- 6.19 The FAD sets out the weight that can be given to current and emerging local policy and has been produced to enable the Council to act proactively to continue to deliver housing in a sustainable manner. For development proposals located outside the defined BUAB, the FAD (at paragraph 5.7) echoes the requirements of HDPF Policy 4 and states that applications will be considered positively provided that all of the following criteria are met:
- The site adjoins a BUAB
  - The level of expansion is appropriate to the related settlement
  - The proposal meets local housing needs
  - The impact does not prejudice long term development
  - The development is within an existing defensible boundary
- This proposal would meet all the criteria of the FAD.
- 6.20 Given the site is located outside the defined BUAB and is not allocated for development in the adopted development plan (the HDPF or a made Neighbourhood Plan), the principle of the development is contrary to Policies 1, 2, 3, 4, and 26 of the HDPF. The site is though a draft allocation within the emerging West Chilmington Local Plan and is an allocation within the Regulation 19 HDPL, however as emerging plans these allocations do not carry full weight in decision making at this stage. It is though recognised by Officers that in the context of the Council's 5-year housing supply position the benefits that would arise from the delivery of extra housing carry positive weight in the determination of the proposal. In order to come to a considered conclusion, it is necessary to therefore balance the benefits of the proposed development against this policy context and any other policy compliance, conflict and harm. The following sections of this report consider all other detailed planning considerations, with the final section considering the overall planning balance.

## Impact on the Character and Appearance of the Surrounding area

- 6.21 Policy 33 of the HDPF states that in order to conserve and enhance the natural and built environment, developments shall be required to ensure that the scale and massing of development relates sympathetically within the built surroundings, landscape, open spaces and routes within the adjoining site.
- 6.22 Policy 25 of the HDPF seeks to preserve, conserve and enhance the landscape and townscape character of the district, taking into account individual settlement characteristics, and maintaining settlement separation. Policy 26 states that, outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Policy 32 requires development to complement locally distinctive characters and to contribute a sense of place both in the buildings and spaces themselves and in the way they integrate with their surroundings.
- 6.23 Under the previous appeals for this site, respective applications for 19 (DC/15/1389) and 21 (DC/14/2248) dwellings were both refused partly on the grounds of landscape and visual impact. Of particular note with the previous appeals is that these applications were to the lower field at Smock Alley only. The current application spreads out the proposed development for 14 dwellings over the two fields located at the site.
- 6.24 Under DC/14/2248, the Inspector noted that *'the settlement of West Chiltington is in two parts. What local residents described as the historic core lies to the north on higher ground. The school is there. To the south and almost wholly separated by open land is the much larger West Chiltington Common. The appeal site lies at the eastern edge of this part of the settlement and would become part of the triangular residential area enclosed by Haglands Lane to the north, Smock Alley to the east and Lordings Lane to the south and west. The latter is a private road along which runs a public right of way.'* Although dating back nearly 10 years, the above description is still accurate.
- 6.25 The Inspector goes on to states that *'the appeal site is a field that rises to the west from Smock Alley by about 10 to 11m. At the top of the slope but outside the application site is an area of woodland subject to a Tree Preservation Order. Although lying to the south of Haglands Lane the narrow nature of that Lane combined with the woodland at the top of the slope means that, in my judgement, the appeal site reads as part of the open countryside that separates the two parts of the settlement and which HDPF policy 25 seeks to maintain. Although of little intrinsic landscape value in itself, it is the contribution towards this settlement separation that is the most important landscape characteristic of the appeal site.'*
- 6.26 As outlined in the appeal, the proposal to the lower field would extend the residential development of the village into this undeveloped area with a modest urban estate and would have some eroding effect on this important contribution to the landscape character. The Inspector stated that the determinative for this issue therefore is the extent to which the layout responds to local character and history, and reflects the identity of local surroundings. The Inspector concluded that the constrained nature of the proposal to the lower field, with limited opportunity for planting, would be at odds with the character of this part of the settlement.
- 6.27 Under DC/15/1389, the proposed layout was similar to that proposed under the previous appeal with a reduction to a proposal for 19 dwellings. The Inspector also refused this appeal on design grounds stating that the *'proposed development would result in material harm to the character and appearance of the area, in particular having regard to the individual settlement characteristics, including the separation of the two built-up areas of West Chiltington.'*
- 6.28 For the current proposal, as stated, the scheme now includes both the lower and upper fields at Smock Alley. The two fields are divided by an existing hedge to be retained on site. The

access to the site is proposed from Smock Alley in a central position allowing access to both fields. To the lower field, 8 dwellings are proposed. These are divided into three detached dwellings (two bungalows and a two storey dwelling), a two storey pair of semi-detached houses and a row of three houses (also two storey). The three detached houses each include their own detached garage and parking area. The southern field would also include the location of the proposed water treatment plant. The water treatment plant is a small pitched roof building up to 4.1m high, 6.5m long and 3.2m wide. The treatment plant is surrounded by proposed landscaping and fencing. Adjacent to the treatment plant and located to the south eastern corner of the site, a retention pond is proposed.

- 6.29 To the northern field, 6 detached dwellings are proposed. These are divided into 2 bungalows, located to the plots to the northern west corner of the site, and four two-storey dwellings. Each of these dwellings would include its own detached garage and parking area. All of the houses are shown in a traditional design or varying designs, all with pitched roofs. Some of the two storey houses include half dormers, quoin details and full length side chimney stacks. The bungalows are also shown with quoin details, large chimney stacks and small pitched roofed dormer windows to allow accommodation in the roof space. The submitted plans show a variety of materials including brick, tile hung, plain tile roofing and whitewash.
- 6.30 For the current proposal, the Council's Landscape Architect has commented that the application site is predominately rural and can be read as part of the open countryside it sits in. The Landscape Architect has stated that whilst there is landscape harm from the proposal, the scheme's layout is considered to *'largely respond to the local character and being reflective of the surrounding urban fabric. Most of the existing landscape features are proposed to be retained and have the potential to be enhanced. This together with other mitigation measures, could result in acceptable harm to the receiving landscape.'*
- 6.31 The above comments were subject to conditions and the applicant addressing the following:
- More information required on the existing and proposed levels. This concern was subsequently addressed with site survey and proposed finished floor level plans. The proposed plan demonstrated that there is enough distance between the plots to accommodate the level changes without needing development platforms with retaining walls or other less engineered interventions.
  - The submitted Tree Survey and Arboricultural Report indicated the loss of Goat Willows, no: 49 C1 and 50 C1, both located at the top of the site near plot 6 & 7 as shown on the tree protection plan. These trees are however still showing in the landscape proposals plan as being retained. It was subsequently clarified that these trees are to be retained.
  - Clarification was also sought on the removal of hedgerow and trees to allow the access. As amended, the Landscape Architect commented that the further details received were acceptable subject to a condition requiring details of the planting along the boundary of Smock Alley.
  - Concern was raised regarding the central hedgerow comprising mostly of blackthorn and Hawthorn. This can be of concern to future residents, particularly those with younger children near the open space and therefore measures to avoid this becoming an issue must be integrated with the design from the outset. Amended plans were subsequently submitted showing fencing and knee rail fencing with posts to screen the hedgerow.
  - Concern was raised regarding the original 1.8 high timber fence all around the development. This was subsequently amended to more appropriate green chainlink boarded fencing. As amended, close boarded fencing was also removed from abutting the public realm.
  - Larger tree specimens were recommended to be shown in the Landscape Plan. As amended, the Landscape Plan indicates trees with girths of 18-20cm. This is considered acceptable.

- 6.32 For tree removal, the scheme largely retains the existing tree and boundary hedgerow around the site. The proposal includes the removal of 7 trees to facilitate the development. This includes one category B oak tree to allow the main vehicular access. The proposal does not affect the adjacent wooded area protected by a Tree Preservation Order. The remaining trees to be removed are of low and poor quality. The Council's Arboricultural Officer has raised no objections to the proposal subject to a condition regarding tree protection measures.
- 6.33 Overall, taking into account the comments of the Landscape Architect, the landscape impact of this proposal is considered appropriate. It can also be argued that the current layout is materially different to those dismissed under the two previous appeals. Under the previous appeals, the proposals for 19 and 21 dwellings were limited to the lower southern field only. This resulted in a more constrained layout which the Inspectors considered out of character with the surrounding area. In contrast, the current proposal includes only 8 dwellings in the lower field resulting in a more spacious and less intensive use of the site that is more commensurate to the character of the adjacent development in West Chilington Common.
- 6.34 The surrounding area is predominately comprised of large dwellings set within spacious curtilages and a verdant setting, which the current proposals would echo. The current scheme utilises both the southern and northern fields mostly retaining the existing boundary treatment around the site. The houses are well spaced out within the site and set well away from the boundaries. The design of the houses is also appropriate matching the character of the houses in the surrounding area. Buffer zones are included all around the proposal. These areas will be retained as grassed areas. Additional landscaping is also proposed. As such, the current layout is considered to have much more of a rural feel to it and is much less 'urban' and constrained when compared to the previous appeal schemes. The proposal is therefore considered to be in accordance with Policies 25, 26, 33 and 36 of the Horsham District Local Plan (2015) in the context of design and landscape impact.
- 6.35 With the introduction of the northern field, it is accepted that the proposal would result in reducing the separation between West Chilington and West Chilington Common. The weight attached to this impact is addressed in the Planning Balance below.

#### **Impact on Heritage Assets:**

- 6.36 Policy 34 of the HDPF relates to Cultural and Heritage Assets and states that applications should make a positive contribution to the character and distinctiveness of the area, and ensure that development in conservation areas is consistent with special character of the area. Section 66 of the Listed Buildings Act and paragraph 205 of the NPPF (2023) also stress the importance and great weight attributed to the desirability of preserving listed buildings or their settings.
- 6.37 The closest designated heritage asset to the site is the Grade II listed post-medieval former farmhouse at 'Old Haglands'. This is located more than a hundred metres north west of the site and is separated from the site by a number of well vegetated boundaries and woodland west of the site. Given this separation, the submitted Heritage Statement concludes that the proposed development of the site would not cause any harm to the significance of Old Haglands, nor any appreciation of that significance.
- 6.38 The Council's Conservation Officer has commented that the proposed development will further suburbanise the setting of the non-designated and the designated heritage asset which would lead to less than substantial harm at the lower end of the scale. This harm should be weighed against the public benefits of the proposal as described in paragraphs 208 & 209 of the NPPF. The weight attached to the harm attributed to the impact on the setting of the listed is addressed in the Planning Balance section below.

#### **Impact upon the Amenities of Nearby and Future residents**

- 6.39 Policy 33 of the HDPF requires that development is designed to avoid unacceptable harm to the amenity of occupiers / users of nearby property and land. It is considered that the site is located a sufficient distance from adjacent residential properties to avoid harming the residential amenity of any existing occupiers, in terms of loss of light, outlook or privacy.
- 6.40 This proposal would most affect the properties directly to the south of the site and the property at Little Haglands, adjacent to the north west corner of the site. The existing residential properties to the west are separated from the site by the retained woodland, whilst the properties to the east are separated from the site by the existing road and retained boundary hedging. It is though acknowledged that there would be some impacts on these properties in terms of the proposed access and associated increase in traffic, however this is not considered so significant as to warrant the refusal of permission. There would also be impacts on the surrounding properties in terms of construction traffic however this is unavoidable but would be for a temporary period only. A condition is recommended requiring the submission of a construction management plan which would outline details to mitigate the impact of construction works as far as possible.
- 6.41 Under the previous appeal decision for 21 dwellings to the southern field (DC/14/2248), the Inspector identified that the layout would result in harm to the amenities of Lavender Cottage and Plot 1 by way of loss of privacy. Lavender Cottage sits to the south of the site close to the southern boundary. No other amenity impacts were identified as being of concern.
- 6.42 Under the current scheme, the proposed site layout has significantly increased the separation of the proposed dwellings from Lavender Cottage such that no property now sits in close proximity. The proposal includes a substantial grassed buffer and a pond to the south east corner of the site, and Lavender Cottage would look out over this buffer and pond. Whilst the dwellings would be visible from the side windows of Lavender Cottage, the proposed dwellings are set a significant distance so that there would be no loss of amenity to either Lavender Cottage or the future occupiers of the new dwellings. This takes into account the differences in land levels between the application site and Lavender Cottage. With the proposed dwellings set back from the boundaries of the site separated from adjacent properties by buffers and retained boundaries, the proposal is also considered acceptable in terms of its impact on all other adjacent properties around the site.
- 6.43 The borehole is located to the north east boundary of the site with a water treatment plant to the southern section. The treatment plant is a single-storey brick structure situated beyond the 10 wide buffer from the southern boundary with Lavender Cottage. With this set back, the treatment plant building would not significantly affect the amenity of Lavender Cottage in visual terms. In terms of potential noise disturbance from the pumping and treatment mechanism, the Council's Environmental Health officer has commented that the background noise levels from the plant would be low. Nevertheless, given the proximity of the plant room to adjacent properties, a condition is recommended requiring the submission of an acoustic impact assessment, including any required attenuation measures, to ensure that the noise impact of the plant is acceptable. Subject to this condition, the proposal is considered in accordance with the above policies.

### **Housing Mix & Affordable Housing Provision**

- 6.44 HDPF Policy 16 requires a mix of housing sizes, types and tenures to meet the needs of the district and local communities and of the number of dwellings as proposed, that 35% of the provision be affordable with a tenure split of 70% affordable rented and 30% intermediate tenure.
- 6.45 The HDLP includes an amended Affordable Housing Policy (Policy 39) which requires, amongst other things, a provision of 45% affordable housing on greenfield sites. As previously stated, given the current emerging status of the HDLP, Policy 39 is given low -

moderate weight at this time. As such, at the current time officers consider the requirement for affordable housing to remain at 35% as stated in the HDPF 2015.

- 6.46 This proposal includes 5 affordable units out of the 14 units proposed. This equates to a provision of 35%. No details have been provided about the tenure split of the affordable houses however the expectation would be a 70/30 split of affordable rented and shared ownership properties respectively. The Council's Housing Officer has commented that due to the small number of properties, even a 50/50 split would possibly present problems for Registered Providers. Housing Officers have stated they would be happy to discuss potential options regarding the split with the applicant, with the final split to be agreed under an obligation set out in a legal agreement to secure the affordable units. With the provision of 35% affordable housing and the tenure split to be agreed, the scheme is in accordance with Policy 16.
- 6.47 In terms of market housing, the proposal would provide 2 x four bedroom units, 5 x three bedroom units and 2 x two bedroom units. This is considered appropriate given the provision of smaller three and two bedroom units, in accordance with the Council's Strategic Housing Market Assessment (2019).

### **Highway impacts**

- 6.48 Policy 40 of the HDPF states that development will be supported if it is appropriate and in scale to the existing transport infrastructure, including public transport; is integrated with the wider network of routes, including public rights of way and cycle paths, and includes opportunities for sustainable transport. Policy 41 of the HDPF states that adequate parking and facilities must be provided within developments to meet the needs of anticipated users.
- 6.49 The current scheme proposes a new access to serve the development from Smock Alley. This is in a central position opposite the dwellings at Oak Tree House and The Oaks. Under the previous appeals for development of the lower field, a proposed access was also shown from Smock Alley, albeit this access (for both appeal schemes) was indicated opposite the Oaks, slightly further south onto Smock Alley, when compared to the current proposal.
- 6.50 It should be noted that under the previous appeal decision, the Inspectors did not raise any concerns regarding the access onto Smock Alley or on any highway capacity, safety or sustainable access grounds. Under DC/15/1389, neither highway impact nor the sustainability of the site for pedestrians was directly addressed by the inspector. Under DC/14/2248, the Inspector commented that *'subject to a condition securing the provision of the required visibility splays, the Highway Authority raises no objection. I saw that only a limited amount of lower level vegetation would need to be removed to achieve the necessary visibility and have no reason to disagree with the Council on this aspect.'*
- 6.51 With regard to access to facilities, the Inspector commented that it took about 10 minutes to walk to the village centre along narrow roads with limited footways. The Inspector considered it unlikely that a child would be walked to school from the Smock Alley site. Whilst this was not considered ideal, the Inspector considered a reason for refusal untenable on these grounds. For the current proposal, lesser houses are proposed when compared to the previous appeal schemes. As such, the highway impact is considered less than the previous appeal schemes.
- 6.52 To support the current application, a Transport Statement has been submitted. The Statement outlines that the access road has been designed with 6 metre kerb radii and 6 metre wide carriageway for the first 10 metres. Thereafter the access road narrows to 3.25 metres at various location throughout the site. A number of passing places including private drives are situated throughout the site to allow two cars appropriate space to pass if required. The Statement goes on to state that Smock Alley is subject to a 30 miles per hour speed limit. To ascertain the required visibility splays an automatic traffic counter (ATC) was placed



along Smock Alley, within the vicinity of the proposed access location. The ATCs were placed between the 2<sup>nd</sup> July 2021 and 8<sup>th</sup> July 2021.

- 6.53 WSCC Highways have commented that TRICS (trip generation) data has been provided to give an indication of related vehicle movements on the highway network. WSCC have commented that the levels indicated would not give rise to a level that would cause a highway safety impact or safety concern on the local highway network. In addition, no concerns are raised with regards to the access arrangements and visibility splays.
- 6.54 The proposal would provide 30 standard parking spaces and 7 double garages. The parking details are in line with the WSCC parking guidance and there is not expected to be any overspill parking on the highway due to the provision being proposed. Cycle parking is to be provided in the garages or gardens of the dwellings.
- 6.55 In terms of sustainable access, WSCC have commented that *'whilst there are several local services available to future residents and options to travel sustainably there are no footways to allow direct access, and walking/cycling would have to take place on the local roads to access these or via Public Right of Ways (PROW's). There are options available although it is suspected that there will be a heavier reliance on the private motor vehicle give the sites location and context of the area.'*
- 6.56 It is acknowledged that the houses proposed would be reliant on private motor cars given the location of this site. However, having regard to the appeal decisions for the development of the site for a larger amount of housing and the comments on sustainable access, a refusal in these grounds is not considered warranted.
- 6.57 As originally submitted, WSCC requested an updated Road Safety Audit. This was subsequently submitted and considered appropriate by WSCC. As such, WSCC have commented that, subject to conditions, the proposal is acceptable in terms of its highway impact in accordance with Policies 40 and 41 of the Horsham District Planning Framework (2015).
- 6.58 During the process of the application, an independent traffic survey was submitted by a nearby resident. WSCC assessed the survey and its findings. They commented that the Highway Authority acknowledge and understand the local concerns being raised about the rural nature of the roads being referred to, and concerns regarding increasing traffic levels on these types of roads are a regular occurrence, as is the case for many others across the West Sussex County. However, WSCC are satisfied that the application has demonstrated that the highway impact of the proposal is acceptable and the evidence submitted to them does not alter this assessment.

## **Ecology**

- 6.59 Policy 31 of the HDPF (2015) states that development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites.
- 6.60 The current application was submitted in September 2021 and has been delayed due to issues with water neutrality. In accordance with guidance, the applicant has submitted up to date ecology surveys (submitted August 2023). It should be noted that no ecology concerns were raised to the two previous appeal decisions relating to the lower field.
- 6.61 The updated ecology reports include a Biodiversity Net Gain Assessment (with Defra Metric 3.1 Spreadsheet) and an Ecological Appraisal. These cover the likely impacts of development on protected & priority species and habitats, and the identification of proportionate mitigation. It should be noted that there is no legal requirement for this

proposal to provide 10% BNG, as it was submitted prior to February 2024. The Council's ecologists note the site lies 7.9km from The Mens Special Area of Conservation (SAC) (Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol) and therefore falls within the 12 km Wider Conservation Area for the SAC. The qualifying feature for the SAC is Barbastelle bats, but this species was not recorded during the bat activity surveys (Ecological Appraisal Addendum (LUC, August 2023)) and there are no records for this species within 2km of the site. Common and Soprano Pipistrelle bats, Noctule, Leisler's, Serotine, Myotis sp. and Brown Long-eared bats were recorded during the bat activity surveys.

- 6.62 The Ecologist notes that trees are to be removed during the development. However, 39 native and non-native trees will be planted within the development as mitigation for the loss of these trees and all of the hedgerows within the site, including the central hedgerow, and the scrub and broadleaved woodland edge with mature trees, will be retained. As Barbastelle bats may use the onsite habitat, the Ecologist supports the recommendation that a Wildlife Friendly Lighting Strategy is implemented for this application (Ecological Appraisal Addendum (LUC, August 2023) to avoid impacts from light disturbance. This can be secured by a recommended condition. Therefore, with mitigation, there will be no adverse effect on the integrity of the SAC. As such, in line with Habitat Regulations, an Appropriate Assessment on the impacts on bats has been produced. Natural England have been consulted on the assessment and raised no objections.
- 6.63 The proposal would require the relocation of a badger sett on site. The badger sett would be relocated nearby. In accordance with government guidance, the exact location of the badger sett and the area for its relocation cannot be stated in this report, in order to protect the badgers from persecution. The Council's Ecologist has not raised any concerns to the relocation and commented that a Badger mitigation licence will be required for this application.
- 6.64 The Ecologist is also supportive of the implementation of the Reptile Method Statement and is satisfied that the reports and mitigation proposed provides certainty for the Local Planning Authority regarding the likely impacts on protected species. The 29.71% increase in habitat units and the 21.80% increase in hedgerow units set out in the Biodiversity Net Gain Assessment (LUC, August 2023) is also welcomed. The proposed habitats, including the enhancement of modified grassland, planting of meadow seed mixes, urban trees, broadleaved woodland, scrub and a SuDS feature should be subject to a long-term Landscape and Ecological Management Plan (LEMP) to ensure they are managed to benefit wildlife and deliver the promised net gain for biodiversity.
- 6.65 Overall, subject to conditions, no objection is raised to this proposal in terms of its ecological impact and the proposal is in accordance with Policy 31 of the HDPF.

### **Water Neutrality**

- 6.66 Horsham District is situated in an area of serious water stress, as identified by the Environment Agency. In September 2021, Natural England released a Position Statement which advised all local authorities within the Sussex North Water Supply Zone that it cannot be concluded that existing water abstraction within the Sussex North Water Supply Zone is not having an adverse effect on the integrity of the Arun Valley SAC/SPA/Ramsar sites near Pulborough. The Position Statement advises the affected local authorities that developments within the Sussex North Supply Zone must not therefore add to this impact, and to achieve this, all proposals must demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.
- 6.67 In assessing the impact of development on protected habitat sites such as those in the Arun Valley, decision makers must, as the competent authority for determining impact on such

sites, ensure full compliance with the Conservation of Habitats and Species Regulations 2017 (known as the Habitat Regulations). The Regulations require that a Habitats Regulations Assessment (HRA) be carried out to determine if a plan or project may affect the protected features of a habitats site. Regulation 70(3) requires that planning permission must not be granted unless the competent authority (Horsham District Council) is satisfied that the proposed development will not adversely affect the integrity of the affected habitats site. Regulation 63 sets out the process by which an HRA must take place.

- 6.68 The requirements of Regulations 63(5) and 70(3) are reflected in paragraph 186 of the NPPF, which states that *'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused'*.
- 6.69 The site falls within the Sussex North Water Supply Zone which draws its water supply from groundwater abstraction at Hardham (near Pulborough), adjacent to the Arun Valley sites. The water abstraction issues raised by the Natural England Position Statement are currently material planning considerations relevant to any future planning proposal on this site. Given the requirements of the Habitat Regulations and paragraph 186 of the NPPF, adverse impact on the integrity of the Arun Valley sites must be given great weight in decision making. In order to demonstrate that no adverse impact will occur at the Arun Valley sites, all new development within the supply zone that is likely to increase water consumption (such as housing) must demonstrate water neutrality. Until a wider strategy is developed to address this issue, all developments must demonstrate that they will be water neutral in their own rights. In order to demonstrate this, a Water Neutrality Statement must be submitted which sets out the strategy for achieving water neutrality within the development. This would then be considered through Appropriate Assessment (in consultation with Natural England) to consider whether the mitigations proposed will ascertain that adverse effects will be avoided.
- 6.70 As there are no existing uses on the land, the baseline for water usage for this development is nil. Based on the proposed occupancy levels of the proposed 14 houses and the standard Building Regulations water consumption figure of 125 litres per person per day, without mitigation, the total proposed water usage is calculated as 4,357.5 litres per day.
- 6.71 To minimise the water use of the development, water efficient fixtures and fittings will be incorporated. A water calculation in accordance with Building Regulations Part G has been carried out and confirms that the proposed development will achieve a water consumption rate of 110 litres per person per day, which includes an allowance of 5 litres per person per day for external water usage. A copy of the Part G calculation can be found with the submitted Water Neutrality Statement.
- 6.72 Using the Part G water consumption figure of 110 litres per person per day and a population size of 34.86, it is estimated that the total water usage per day for the proposed development would be reduced to 3,834.6 litres per day (34.86 x 110). Therefore, following incorporation of water efficient fixtures and fittings the total water demand of the proposal will be 3,834.6 litres per day.
- 6.73 To offset the remaining water demand required for this proposal, the applicant is proposing a borehole which would extract up to 20,000 litres per day. This is from the underlying Hythe Formation aquifer. This has been designed to draw the water supply from a source which is not connected to the Sussex North water supply zone.

#### Water Source

- 6.74 To support this proposal, the applicant has submitted evidence in the form of a Borehole Feasibility Assessment. The Assessments identifies that the borehole will target the Hythe Formation aquifer (Nb The Sussex North WRZ obtains its water from Folkestone Formation aquifer via boreholes some 5.7 km west of the site).

- 6.75 Given the relative proximity of the site to the Hardham abstraction points, officers have queried whether the Hythe Formation aquifer is separate from the Folkestone Formation aquifer. The applicants have responded that there are no field investigation methods that can be undertaken on-site that could be used to verify or refute the assertion that the Marehill Clay (or the Sandgate Formation as a whole) is locally an aquitard that acts to prevent connectivity.
- 6.76 Notwithstanding the above, the applicant has evidenced further how the yield will be from the Hythe Beds aquifer and not likely impact on the Folkestone Formation which serves Hardham. This evidence is based on qualitative differences in hydraulic resistance of three pathways between the potential sources of water and the borehole. This evidence shows the Smock Alley Waterworks borehole was artesian when drilled (i.e. naturally high pressured), which strongly indicates that the source of water was the Hythe Formation, as the alternative routes, which include movement of water from the Folkestone Formation (the Hardham aquifer) through the Marehill Clay and Pulborough Sandrock beds (which sit between the Folkestone and Hythe Formations) would not have generated an artesian head and could not have maintained such a high flow rate for any period of time. Based on this information officers are satisfied that there is little likelihood of there being an appreciable link between the Hythe Formation which the borehole targets and the Folkestone Formation which serves Hardham.

Headroom Yield:

- 6.77 To address whether the borehole can provide enough yield for the lifetime of this proposed development, a memo has been submitted from Stephen Buss Consulting Ltd. The memo states:

*'There is no reasonable doubt that a borehole drilled to the recommended depth (see below), and completed correctly, will be able to yield in excess of 20 m<sup>3</sup>/day. The Hythe Formation is a good aquifer, that can locally maintain a public water supply abstraction of about 3000 m<sup>3</sup>/day.'*

- 6.78 Southern Water's Smock Alley pumping station is located nearby for which there is a borehole log. This also utilises the Hythe Beds. Southern Water's Water Resources Management Plan retains the Smock Alley pumping station as a source capable of providing up to 3320 m<sup>3</sup>/day. This corroborates the applicant's evidence of their being sufficient long term yield to cater for their development. The applicant has therefore suitably evidenced that the proposed borehole will be able to provide sufficient yield for the lifetime of the development.

Conflict with Southern Water Borehole:

- 6.79 As stated, the proposed borehole will utilise the same part of the Hythe Formation aquifer used by Southern Water nearby on Smock Alley. The Southern Water borehole is not currently in use but it is understood that Southern Water wish to bring the borehole back into use. To address this potential conflict, the applicant has submitted an assessment which considers whether future abstraction by Southern Water at Smock Alley pumping station will make groundwater abstraction unviable at the Smock Alley development site for 14 houses. The assessment states that it has been estimated that, even with abstraction at Smock Alley, there will always be at least 44m of water within the new Smock Alley borehole, and since the pump has been set near its base the expected drawdown will not compromise its operation.
- 6.80 To confirm the water neutrality solution and impact on the Southern Water borehole, the Council has employed the services of an independent hydrologist. The hydrologist has assessed all submitted material and commented that they agree with the reported outcomes.

This includes agreement that the proposal would not be impacted or impact upon the reuse of the Southern Water borehole. In terms of Southern Water comments, they have stated that they do not comment on individual water neutrality statements but have forwarded their comments to the Environment Agency licence for the new Smock Borehole. The comments from Southern Water raise no objection to the licence application.

#### Water Quality:

- 6.81 The quality and safety of private water supplies is controlled by the Private Water Supplies (England) Regulations 2016 (as amended) and is regulated by the Council's Environmental Health team. The applicant has undertaken a water quality assessment from the test borehole and the measures to ensure the water quality is acceptable for drinkable consumption has been provided. The Council's Environmental Health Team have commented that the testing is acceptable and that subject to conditions they have no objection to the proposal in relation to water quality.

#### Conclusion on water Neutrality:

- 6.82 The proposed borehole will utilise the Hythe Formation aquifer which can provide up to 20,000 litres per day. This more than enough to offset the water demand of the proposed development of 3,834.6 litres per day. Evidence has been submitted to satisfy officers that the aquifer is separate to the Folkestone Formation aquifer (used by Southern Water's Hardham boreholes). Evidence has also been submitted to indicate that there is sufficient water yield for the lifetime of this development and that, subject to conditions, the water quality provided would be acceptable.
- 6.83 Subject to conditions and obligations to be secured in a legal agreement, the project will not have an Adverse Effect on the Integrity of the Arun Valley Site, either alone or in combination with other plan and projects. Natural England have been consulted on the Appropriate Assessment undertaken for this proposal and have raised no objection.

#### **Climate Change:**

- 6.84 Policies 35, 36 and 37 require that development mitigates to the impacts of climate change through measures including improved energy efficiency, reducing flood risk, reducing water consumption, improving biodiversity and promoting sustainable transport modes. These policies reflect the requirements of Chapter 14 of the NPPF that local plans and decisions seek to reduce the impact of development on climate change. The Planning statement details several measures which seek to build resilience to climate change and reduce carbon emissions, including:
- Use of energy efficient materials / construction methods,
  - Potential for roof mounted photo voltaic panels,
  - Delivery of net gain in biodiversity,
  - Limiting water consumption through the installation of water efficient appliances, grey water and rain water harvesting.
- 6.85 Subject to the implementation of these measures (either within the design of the site or secured by condition); the application will suitably reduce the impact of the development on climate change in accordance with current local and national policy.

#### **Drainage:**

- 6.86 The current application is accompanied by a Flood Risk Assessment and Drainage Strategy. The existing site is an open greenfield site with vegetated boundaries, hedgerows and a wooded area to the west. The site lies within Flood risk zone 1 and is at very low risk of surface water flooding. The proposal states that post-development surface water will be

managed through sustainable drainage systems. The SuDS feature will also attenuate and discharge surface water via infiltration.

- 6.87 The Council's Drainage Officer has commented that they have no overall objections to the proposal subject to drainage conditions requiring further details. WSCC as the Local Lead Flood Authority have also commented that they have no objection to the proposal.

#### **Land Contamination**

- 6.88 The Council's Environmental Health Team have commented that the proposed use is a use that is sensitive to the presence of contamination. From reviewing GIS data and undertaking a site visit the Environmental Health officer is of the view that the risks from contamination to future site users are capable of being assessed through a recommended condition.

#### **Air Quality:**

- 6.89 The application site is not located within a defined Air Quality Management Areas (AQMAs). However, it is close by the AQMA located at Storrington. An Air Quality Assessment (AQA) has been submitted with this application. This outlines measures to mitigate the impact of the proposal in air quality.
- 6.90 The Council's Air Quality Officer has commented that they have reviewed the submitted Air Quality Assessment dated 27 July 2021 and agree with its assessment. Should the proposed development be approved, a condition is recommended securing the provisions of the air quality mitigation. This would secure the air quality mitigation plan should equal in value to the calculated environmental damage cost of £2,529, as outlined in the submitted statement. This is in accordance with the Air Quality and Emissions Mitigation Guidance for Sussex (2020).
- 6.91 The assessment should provide itemised costing for each proposed measure, equating to the total damage costs. It should be noted that 'Part S' of the Building Regulations requires a raised level of EV provision within all developments, therefore the Council are of the view that this cannot now be used to mitigate against the calculated emissions impacts of the development, unless any such EV charging facilities are clearly in excess of the Part S standards.

#### **Mineral Safeguarding:**

- 6.92 The application site is located within a Minerals Safeguarding Area (as defined in the WSCC Joint Minerals Local Plan (JMLP), 2018) for Brick Clay, Silica Sand and Building Stone. As required by the West Sussex Joint Minerals Local Plan (2021) a Minerals Resource Assessment should be submitted to identify whether economically viable mineral resources are present on site, and whether prior extraction is practicable. Policy M9 (iii) of the West Sussex Joint Minerals Local Plan requires that for non-mineral development (such as residential development), the decision-maker must determine whether the overriding need for the development outweighs the safeguarding of the mineral. This proposal does not include a Mineral Resource Assessment. However, given the relatively minor scale of this development, the impact on the mineral resource would be negligible and would not warrant a reason for refusal.

#### **Planning Balance and Conclusion:**

- 6.93 In accordance with planning law, the starting point for the assessment of this proposal is to consider whether or not it accords with the provisions of the adopted development plan (comprising the HDPF). The site is not allocated for housing development in the HDPF, therefore in the first instance, it must be concluded that the development of the site for

housing is contrary to Policies 1, 2, 4, and 26 of the HDPF. This carries significant weight against the proposal.

- 6.94 Notwithstanding this, it is acknowledged that the site has been selected for housing allocation in the emerging Local Plan (HDLP) and draft West Chiltington Neighbourhood Plan (Regulation 14 version). Although only very limited weight can be attached to the draft neighbourhood plan allocation at this stage, and low-moderate weight to the HDLP allocation, they do indicate a direction of travel for this site. The proposal is also considered to accord with the main criteria listed within the published Facilitating Appropriate Development (FAD) document which also carries weight in favour of the proposal.
- 6.95 This report has established that (subject to conditions and a legal agreement) key matters including impact on highways, landscape, ecology, BNG improvements, heritage, drainage, and sustainably/climate change are judged to be acceptable. The proposal has been designed to accord with the surrounding landscape and heritage characteristics and has taken care to ensure that neighbouring amenity is not unduly compromised by the inclusion of suitable boundary treatments and additional planting. The application proposes a policy compliant number of affordable units which adds weight in favour of the proposal.
- 6.96 Some harm has been identified within the report, including an impact on the distance between West Chiltington Village and West Chiltington Common reducing the separation between the two. Whilst this harm is acknowledged, Officers are of the view that the level of harm is not significant enough to warrant refusal but does however carry weight against the proposal.
- 6.97 Less than substantial harm has also been identified to the setting of a nearby listed building. Given the public benefits of the proposal, providing much needed housing (including affordable housing), the harm attributed to the setting of the listed building is outweighed by the benefits.
- 6.98 As established within this report, the Council is unable to demonstrate a 5-year supply of deliverable housing sites when calculated against the identified need, with supply currently calculated as 2.9 years. As such, the weight attributed to the conflict with HDPF Policies 4 and 26 is diminished, and the provisions of paragraph 11d of the NPPF are relevant, which requires the decision makers to apply a presumption in favour of sustainable development (the tilted balance) in such circumstances. As the proposal has been demonstrated to be water neutral, no policies that protect areas of particular importance provide for a clear reason to refuse permission, therefore the presumption in favour of sustainable development (the 'tilted balance') fully applies in the consideration of this application.
- 6.99 Whilst the site is not allocated for development in the adopted local plan (the HDPF), the emerging site is allocated in the draft Neighbourhood Plan and the emerging HDLP. The proposal is also in compliance with the contents of the FAD document. This coupled with the Council's 5-year housing land supply position and associated application of the tilted balance, leads to the conclusion that the benefits of the 14no. market and affordable dwellings, would outweigh the conflict with the HDPF.
- 6.100 Officers are therefore recommending to Committee that the subject to the conditions listed below, and the completion of a s106 legal agreement (to secure 5no. affordable housing units) the application for 14no. dwellings on this site should be granted planning approval.

#### COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 6.101 Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1<sup>st</sup> October 2017.

**It is considered that this development constitutes CIL liable development.**

Use Description	Proposed	Existing	Net Gain
		0	2178.7sqm
		<b>Total Gain</b>	<b>2178.7sqm</b>
		<b>Total Demolition</b>	<b>0</b>

6.102 Please note that the above figures will be reviewed by the CIL Team prior to issuing a CIL Liability Notice and may therefore change. Exemptions and/or reliefs may be applied for up until the commencement of a chargeable development. In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

## 7. RECOMMENDATIONS

7.1 Approve subject to the completion of a legal agreement to secure the affordable housing units and in accordance with the below conditions:

### Conditions:

#### 1. Plans list.

2. **Regulatory (Time) Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3. **Pre-Commencement Condition:** The development hereby approved shall not commence until the following demolition and construction details have been submitted to and approved in writing by the Local Planning Authority. The details shall be limited to the following measures:

- i. Details of site management contact details and responsibilities;
- ii. A plan detailing the site logistics arrangements on a phase-by-phase basis (as applicable), including:
  - a. location of site compound,
  - b. location for the loading, unloading and storage of plant and materials (including any stripped topsoil),
  - c. site offices (including location, height, size and appearance),
  - d. location of site access points for construction vehicles,
  - e. location of on-site parking,
  - f. locations and details for the provision of wheel washing facilities and dust suppression facilities
- iii. The arrangements for public consultation and liaison prior to and during the demolition and construction works – newsletters, fliers etc, to include site management contact details for residents;
- iv. Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination

The construction shall thereafter be carried out in accordance with the details and measures approved in the CEMP.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of wildlife and biodiversity, nearby occupiers and highway safety during construction and in accordance with Policies 31, 33 and 40 of the Horsham District Planning Framework (2015).



4. **Pre-Commencement Condition:** No development shall commence until precise details (to include details shown on a plan) of the existing and proposed finished floor levels and external ground levels of the development in relation to nearby datum points adjoining the application site have been submitted to and approved by the Local Planning Authority in writing. The development shall be completed in accordance with the approved details.

Reason: As this matter is fundamental to control the development in detail in the interests of amenity and visual impact and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

5. **Pre-Commencement Condition:** No development shall commence until full details of underground services, including locations, dimensions and depths of all service facilities and required ground excavations, have been submitted to and approved by the Local Planning Authority in writing. The submitted details shall show accordance with the landscaping proposals and Arboricultural Implications Assessment. The development shall thereafter be carried out in accordance with the approved details.

Reason: As this matter is fundamental to the acceptable delivery of this permission, to ensure the underground services do not conflict with satisfactory landscaping in the interests of amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

6. **Pre-Commencement Condition:** No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until the following preliminaries have been completed in the sequence set out below:

- i. All trees on the site shown for retention within the Arboricultural Impact and Method Statement, as well as those off-site whose root protection areas ingress into the site, shall be fully protected throughout all construction works by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).
- ii. Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site.
- iii. Areas so fenced off shall be treated as zones of prohibited access, and shall not be used for the storage of materials, equipment or machinery in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone.

Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees or hedging plants of a type, size and in positions agreed by the Local Planning Authority.

Reason: As this matter is fundamental to ensure the successful and satisfactory protection of important trees and hedgerows on the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).

7. **Pre-Commencement Condition:** No development shall commence until a Biodiversity Enhancement Strategy has been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- i. Purpose and conservation objectives for the proposed enhancement measures;
  - ii. Detailed designs to achieve stated objectives;
  - iii. Locations of proposed enhancement measures by appropriate maps and plans;
  - iv. Persons responsible for implementing the enhancement measures;
  - v. Details of initial aftercare and long-term maintenance (where relevant).

The works shall have regard to the requirements set out within the Horsham District Council 'Biodiversity and Green Infrastructure' Planning Advice Note (October 2022) to seek to

achieve a measured 10% net gain in biodiversity. The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

**8. Pre-Commencement Condition:** The development hereby approved shall not commence until the following biodiversity construction details have been submitted to and approved in writing by the Local Planning Authority. The details shall be limited to the following measures:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

**9. Pre-Commencement Condition:** No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority. The Reptile Mitigation Strategy shall include the following.

- i. Purpose and conservation objectives for the proposed works.
- ii. Review of site potential and constraints.
- iii. Detailed design(s) and/or working method(s) to achieve stated objectives.
- iv. Extent and location/area of proposed works on appropriate scale maps and plans.
- v. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- vi. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- vii. Persons responsible for implementing the works.
- viii. Details of initial aftercare and long-term maintenance of the Receptor area(s).
- ix. Details for monitoring and remedial measures.
- x. Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter."

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species)

- 10. Pre-Commencement Condition:** No development shall commence until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: As these matters are fundamental to safeguard the ecology and biodiversity of the area in accordance with Policy 31 of the Horsham District Planning Framework (2015), and to enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 11. Pre-Commencement Condition:** No development shall commence until a Drainage Strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. As part of the details required, a Surface Water Drainage Scheme should be submitted (based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development) which should demonstrate how surface water run off would be disposed of, in accordance with Part H3 of Building Regulations hierarchy as well as acceptable discharge points, rates and volumes. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained, and to prevent increased risk of flooding, in accordance with Policies 35 and 38 of the Horsham District Planning Framework (2015).

- 12. Pre-Commencement Condition:** No development shall commence until the following have been submitted to the Local Planning Authority in writing:
- (a) A licence issued by Natural England in relation to the badger sett closure pursuant to the Badger Protection Act 1992 authorizing the specified activity / development to go ahead; or
  - (b) A statement in writing from Natural England to the effect that it does not consider that the specified activity / development will require a licence.

Reason: To conserve protected species and allow the LPA to discharge its duties under and Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

- 13. Pre-Commencement Condition:** No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:
- (a) A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - Potentially unacceptable risks arising from contamination at the site.

The following aspects (b) – (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

- (b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
- (c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
- (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 14. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a mitigation scheme, undertaken by a suitably qualified and competent consultant, has been submitted to and been approved in writing by the Local Planning Authority that demonstrates how the water from the borehole(s) will be treated to meet the requirements of Schedule 1 of the Private Water Supplies (England) Regulations 2016 (or subsequent superseding equivalent). The mitigation scheme shall ensure that the components of the proposed treatment system are compliant with Regulation 31 of The Water Supply (Water Quality) Regulations 2016 (or subsequent superseding equivalent) and Water Regulations Approval Scheme (or subsequent superseding equivalent). The mitigation scheme shall be implemented in full prior to first occupation of any dwelling and shall be retained and maintained at all times thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 15. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a Private Water Supply Management Plan (PWSMP) has been submitted to and approved in writing by the Local Planning Authority. The PWSMP shall include, but not necessarily be limited to, the following information:
- i. Detail on the sampling and testing regime, undertake in accordance with Private Water Supplies (England) Regulations 2016 (or subsequent superseding equivalent), with detail on how any failure of any samples will be investigated and managed.
  - ii. Confirmation that a Regulation 6 risk assessment (or subsequent superseding equivalent), undertaken by a suitably competent and experienced person in accordance with relevant guidance and statutory requirements, shall be undertaken before the private water supply is brought into use and at least once every five years thereafter with the findings of the risk assessment submitted to the LPA.
  - iii. detail on the maintenance, servicing and cleaning of the pump, pumphouse, water treatment equipment, tanks, all pipework etc for the lifetime of the development along with regularity of servicing/maintenance and clarification what steps will be taken in the event of equipment failure. This should include any re-activation of the system after it has been out of use due to lack of use.
  - iv. Full specifications and details, including a plan or schematic, showing the supply – storage tanks, treatment etc, and means to record the total water consumption of each unit

iv. Arrangements for keeping written records of all sampling, results of analysis, inspection, cleaning, maintenance and for making these records available to Local Authority officers when reasonably requested.

The management plan shall be implemented as approved and maintained for the lifetime of the development. The management plan shall be reviewed annually and any revisions shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 16. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Biodiversity Net Gain Assessment (LUC, August 2023), Defra Metric 3.1 spreadsheet (LUC, August 2023) and Ecological Appraisal Addendum (LUC, August 2023) shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 17. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved buildings has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 18. Pre-Occupation Condition:** No part of the development hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that water taken from the tap within the dwelling(s) been a) sampled by a person who has undertaken the DWI certification of persons scheme for sampling private water supplies, b) has been analysed by a laboratory that is accredited to the ISO 17025 Drinking Water Testing Specification and c) meets the requirements of Schedule 1 'Prescribed concentrations or values' of the Private Water Supplies (England) Regulations 2016 (or subsequent superseding equivalent).

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 19. Pre-Occupation Condition:** No part of the development hereby permitted shall be first occupied until a risk assessment compliant with Regulation 6 the Private Water Supplies (England) Regulations 2016 (or subsequent superseding equivalent) undertaken by a

suitably competent and experienced person has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 20. Pre-Occupation Condition:** The development hereby permitted shall be undertaken in full accordance with the approved Water Neutrality Statement. No dwelling hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for that dwelling has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, and evidence they meet the required water consumption flow rates. The installed measures shall be retained and operated as such at all times thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 21. Pre-Occupation Condition:** No part of the development hereby permitted shall be first occupied until full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:
- Details of all existing trees and planting to be retained
  - Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details.
  - Details of all hard surfacing materials and finishes
  - Details of all boundary treatments
  - Details of all external lighting (in accordance with Condition 10)
  - Details of the attenuation pond (including gradients, planting, etc)
  - Details of all planting in relation to the visibility splays
  - A Landscape Specification

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed or retained planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Particular focus shall be made to enhance planting along the western boundary of the site to enable an appropriate transition from built development to rural countryside.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

**22. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until an air quality mitigation plan has been submitted to and approved in writing by the Local Planning Authority. The air quality mitigation plan should contain measures equal in value to the calculated environmental damage cost of £2,529 and include (but not be limited to) the measures detailed in Section 6.2 of the RSK Air Quality Assessment:

- Good design principles;
- Low emission boilers;
- Electric charging vehicle points.

The recommended type for a charging point is a fast charging point (30 Amp) with type 2 connector and Mode 3 circuit.

Reason: To mitigate the impact of the development on air quality within the District and to sustain compliance with and contribute towards EU limit values or national objectives for pollutants in accordance with Policies 24 & 41 of the Horsham District Planning Framework (2015).

**23. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until a Landscape Management and Maintenance Plan (including long term design objectives, management responsibilities, a description of landscape components, management prescriptions, maintenance schedules and accompanying plan delineating areas of responsibility) for all communal landscape areas has been submitted to and approved in writing by the Local Planning Authority. The landscape areas shall thereafter be managed and maintained in accordance with the approved details.

Reason: To ensure a satisfactory development and in the interests of visual amenity and nature conservation in accordance with Policy 33 of the Horsham District Planning Framework (2015).

**24. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until provision for the storage of refuse and recycling has been provided within the garage or side or rear garden for that dwelling. The facilities shall thereafter be retained for use at all times.

Reason: To ensure the adequate provision of refuse and recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

**25. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the car parking spaces (including garages where applicable) necessary to serve it have been constructed and made available for use in accordance with the approved plans. The car parking spaces permitted shall thereafter be retained as such for their designated use.

Reason: To provide car-parking space for the use in accordance with Policy 40 of the Horsham District Planning Framework (2015).

**26. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the vehicular access serving the development has been constructed in accordance with the details shown on the approved drawing.

Reason: In the interest of road safety, and to ensure adequate access facilities are available to serve the development in accordance with Policy 40 of the Horsham District Planning Framework (2015).

**27. Pre-Occupation Condition:** - No part of the development shall be first occupied until visibility splays as shown on drawing no: 2103083-03 have been provided at the proposed site vehicular access onto Smock Alley in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all

obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 28. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until a verification report demonstrating that the SuDS drainage system has been constructed in accordance with the approved design drawings has been submitted to and approved by the Local Planning Authority. The development shall be maintained in accordance with the approved report.

Reason: To ensure a SuDS drainage system has been provided to an acceptable standard to the reduce risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance in accordance Policies 35 and 38 of the Horsham District Planning Framework (2015).

- 29. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until a fire hydrant(s) to BS750 standards or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) has been installed, connected to a water supply with appropriate pressure and volume for firefighting, and made ready for use in consultation with the WSCC Fire and Rescue Service. The hydrant(s) or stored water supply shall thereafter be retained as such.

Reason: In accordance with fire and safety regulations in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 30. Pre-Occupation Condition:** No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of a minimum 30 megabytes per second through full fibre broadband connection has been provided to the premises.

Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015).

- 31. Regulatory Condition:** No internally and/or externally located plant, machinery equipment or building services plant (which for the avoidance of doubt shall include all borehole pumping and treatment equipment) shall be operated until an assessment of the acoustic impact arising from the operation of all such equipment has been undertaken and has been submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken in accordance with BS 4142:2014 and shall include a scheme of attenuation measures to mitigate any adverse impacts identified in the acoustic assessment and ensure the rating level of noise emitted from the proposed building services plant is no greater than background levels. The scheme as approved by the Local Planning Authority shall be fully installed prior to first operation of the plant and shall be retained as such thereafter.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 32. Regulatory Condition:** No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015).



- 33. Regulatory Condition:** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Biodiversity Net Gain Assessment (LUC, August 2023), Defra Metric 3.1 spreadsheet (LUC, August 2023) and Ecological Appraisal Addendum (LUC, August 2023)) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes the reptile method statement on p.15 of the Ecological Appraisal Addendum (LUC, August 2023) which avoids impacts on these protected species. This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham Development Framework.