



## Appeal Decision

Inquiry held 28 February – 3 March 2023

Site visits made on 27 February and 3 March 2023

**by AJ Mageean BA(Hons), BPI, PhD, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> April 2023**

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### **Appeal Ref: APP/C3810/W/22/3309365**

#### **Land West of Yapton Lane, Walberton**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by LandQuest UK (Southern) Ltd against the decision of Arun District Council.
  - The application Ref WA/2/22, dated 12 January 2022, was refused by notice dated 25 April 2022.
  - The development proposed is outline planning application with all matters reserved, other than means of access, for the construction of up to 48 dwellings (30% affordable homes) and dental/doctors' surgery (Use Class E (e)).
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#### **Decision**

1. The appeal is allowed and planning permission is granted for outline planning application with all matters reserved, other than means of access, for the construction of up to 48 dwellings (30% affordable homes) and dental/doctors' surgery (Use Class E (e)) at Land West of Yapton Lane, Walberton, in accordance with the terms of the application, Ref WA/2/22, dated 12 January 2022, subject to the conditions set out in the attached schedule.

#### **Preliminary Matters**

2. Whilst there were eight reasons for refusing the planning application, a number of these were addressed prior to the opening of the inquiry. Specifically, the Council agreed that those relating to biodiversity and affordable housing could be resolved, subject to conditions and the completion of planning obligations under Section 106 of the Town and Country Planning Act 1990 (Section 106 Agreement). A certified copy of the executed Section 106 Agreement was handed up at the Inquiry. The implications of this will be considered further below.
3. The Council and the Minerals and Waste Planning Authority agreed that the mineral safeguarding reason for refusal could be withdrawn, subject to a planning condition requiring a scheme for incidental extraction of the safeguarded mineral resources underlying the site.
4. A further reason for refusal concerned highway safety, and specifically the impact of the development on the capacity of the eastbound right turn lane at the A27/Yapton Lane junction. This junction has been subject to previous impact assessments, following which improvements to the length of the right turn lane were proposed and agreed. However, National Highways required that modelling be undertaken to consider whether the proposed improvements allowed sufficient capacity for the traffic flows associated with this development

and that of other committed developments within the locality. This work has been undertaken and has confirmed that with the junction improvements undertaken, there would be sufficient capacity at the junction to accommodate the appeal scheme traffic and that of other committed schemes. As a result this objection has been withdrawn, subject to conditions securing a Travel Plan, a Construction Traffic Management Plan and the junction improvements.<sup>1</sup>

5. It is common ground that the proposal would result in less than substantial harm to the heritage significance of the Walberton Village Conservation Area (CA), through changes to its setting. The implications of this will be considered further below.

### **Main Issues**

6. The remaining areas of dispute between the parties relate to:
  - The effect of the proposal on the intrinsic character and beauty of the countryside, and on the Barnham to Walberton settlement Gap;
  - The implications of the loss of Grade 1 agricultural land;
  - Accepting that the Council is unable to demonstrate a five year supply of housing land, the significance of the shortfall; and,
  - The consistency or otherwise of the proposal with the development plan taken as a whole, and whether any conflict and harm arising would be outweighed by other material considerations.

### **Reasons**

#### ***Countryside and settlement gap***

7. The appeal site lies outside the built-up area boundary (BUAB) of Walberton and is therefore located in the open countryside. It does not fall within any of the categories of development permitted under Policy C SP1 of the Arun District Local Plan (the Local Plan) and is therefore in conflict with its provisions. Linked to this, whilst not referenced in the reasons for refusing the application, there would also be conflict with Policy HP1 of the Walberton Neighbourhood Plan (the NP). More specifically, matters of dispute between the parties relate to the implications of the proposal for firstly the countryside and landscape character and appearance, and secondly for the settlement gap.

#### ***Landscape character and appearance***

8. The appeal site is located within County level Landscape Character Area (LCA) SC8: Fontwell Coastal Plain. Of greater relevance is the district level LCA, that is 23 Walberton Upper Coastal Plain. The Arun Landscape Study 2006 (the Landscape Study)<sup>2</sup> describes this LCA as being a partially enclosed and largely flat agricultural landscape providing separation between Walberton and Barnham, with heritage value. The Landscape Study notes that there was little influence from the existing settlement. The area was assessed as having 'moderate'<sup>3</sup> landscape value, 'substantial' landscape sensitivity, and low

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<sup>1</sup> As set out in CD 9.3 Statement of Common Ground Highways Matters

<sup>2</sup> Landscape and Visual Amenity Aspects of Development Choices in Arun District 2006-2026.

<sup>3</sup> Within document CD8.6 whilst both 'slight' and 'moderate' landscape values are recorded, it appears that the later is correct.

capacity such that development in this area would have 'a significant and detrimental effect on the character of the landscape as a whole'. The appeal site sits on the edge of this LCA, which extends considerably further west. The site and its immediate surrounds are also reasonably contained, with little interaction with the wider LCA. It is therefore appropriate to focus primarily on assessing the value and sensitivity of this landscape at a more localised level.

9. Considering the respective positions of the landscape professionals, for the purposes of this decision it is sensible to combine consideration of the site with that of its local context. The latter is defined as including the network of fields to the south of Walberton village, the northern part of the commercially used land to the south of the Appeal Site, and land to the immediate east of Yapton Lane.
10. Immediately to the north the appeal site adjoins and incorporates two very small parts of the southern edge of the Walberton Village CA. These relate to the entrance and driveway of the former approach to Walberton House, a GII\* listed building. It is agreed that the appeal site does not form part of the setting of Walberton House. The parkland associated with this heritage asset, located to the north-west of the appeal site, once extended further south and eastwards as far as Yapton Lane. However, this area has been reduced with much of it converted to agricultural use, such that the references to 'remnant park/estate landscape south of Walberton' in the Landscape Study is not readily apparent in the vicinity of the appeal site.
11. The appeal site is part of an open and largely flat arable field. Landscape features include the mature landscape setting provided by the tree belts to the east and north, both of which are protected by Tree Preservation Orders (TPO), with mature vegetation interspersed with trees on other boundaries. To the north the trees are associated with the former driveway to Walberton House, with a paddock area behind this providing a degree of separation between the appeal site and the village. The tree belt to the east provides some separation between the appeal site and Yapton Lane, with a permissive footpath route running through the trees. To the south, is a small allotment colony, a designated local green space. Beyond the allotments is a mixture of horticulture/nursery commercial uses, with some residential use. The local area benefits from a well-used network of public rights of way (PROW).
12. Detracting elements of the local landscape include the audible presence of the busy Yapton Lane directly to the east. The large, prominent and unscreened care home building known as Walberton Place is visible directly to the north of the site. Also to the north, the DM Chainsaw premises are a visible element of the area, though as these buildings are more modestly scaled structures with an agrarian character they do not appear out of place. To the south there is some awareness of the glasshouses and other structures associated with horticultural businesses. Overall, the appeal site and its immediate vicinity are of rural character, though with the presence of elements associated with the edge of settlements apparent as part of the wider context.
13. The landscape character of the appeal site and its vicinity typifies the rural context of many villages. Whilst it is of local value, there is nothing to elevate this contribution above that of an 'ordinary' landscape. This area has a medium to high level of susceptibility to change, noting that this indicates that there may be some or limited ability to accommodate the type of change

proposed without undue consequences for the baseline situation. In these circumstances the resulting level of sensitivity of this landscape receptor, that is the appeal site and its immediate context, is at a medium level overall. This is not inconsistent with the assessment of the wider district level LCA, which was found to have medium to high sensitivity in the Landscape Study.

14. Turning to visual matters, the visual envelope of the site is limited by vegetation and built form, such that it is agreed that far ranging views of the site across open countryside are not possible. Its context is defined by the circular walk from Walberton village, past the Church and along the PROW which passes the allotments, returning via the permissive path through the eastern tree belt.
15. As a recreational route it is agreed that people following the PROW and permissive path are the most sensitive visual receptors, as they are most likely to be immersed in the landscape experience. Views through to the appeal site are possible from the southern section of the PROW, though these are filtered by intervening trees and lower-level vegetation. In this respect there is a degree of seasonality associated with such views of the site. More distinct views of Walberton Place are possible from the PROW as it passes by the allotments as here the intervening vegetation narrows. A greater awareness of the site is gained from the permissive path as it weaves its way through the tree belt, particularly where it passes close to the site. There is also a clear view into the site from the south-eastern corner of the field, from which its open aspect can be appreciated. These views have community value and are of medium to high sensitivity.
16. The experience of viewpoints from Yapton Lane are largely restricted to those driving past the appeal site having some awareness of the open fields beyond. The tree belt means that any such views are, at best, fleeting, particularly during summer months. These views are therefore of medium to low sensitivity. Private residential views over the appeal site are possible from Walberton Place and a small cottage adjacent to DM Chainsaws, each of which are of medium to high sensitivity.
17. The appeal scheme would introduce a development of up to 48 dwellings, representing a density of around 19.5 dwellings per hectare served by a single access point off Yapton Lane. It would therefore not be of high density, noting references elsewhere to such densities being similar to that found in Walberton village.<sup>4</sup> Whilst a Parameters Plan has been provided for approval, all matters other than access are reserved at this stage.
18. The Parameters Plan confirms that the scheme would comprise two storey properties, the retention and improved management of a significant proportion of existing woodland areas and the creation of new woodland planting adjacent to Walberton Place and the DM Chainsaws. A significant area of open space incorporating a sustainable drainage scheme and an equipped play area would be located adjacent to the southern site boundary. The location for a potential dental surgery is indicated to the north-east of the site. Two trees and around 60 self-seeded sycamore stems would be lost from the eastern tree belt to accommodate the site access, with more lost to permit the upgrade to the permissive path. The point of access would also require the removal of a short section of flint wall.

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<sup>4</sup> CD 7.2 APP/C3810/W/21/3278130, para 26.

19. Unsurprisingly, it is agreed that the development would have an adverse effect on landscape character, noting the wholesale loss of open agricultural land. This would be replaced by a new estate, with its associated infrastructure including lighting and signage, and a significant increase in vehicular and pedestrian activity.
20. The magnitude of the landscape effect refers to the scale or extent of the loss, its duration and reversibility. The Council suggests that the magnitude of the effect on the site and its local context would be 'high adverse', at the top of the scale of effects, referring to major loss or alteration of an existing landscape element that may be key to landscape character, with an extensive geographical area affected. This exaggerates the extent of the effect, given the relatively contained nature of the appeal site and its context.
21. I prefer the appellant's assessment that the magnitude of the effect would be medium adverse, that is a noticeable/prominent change of more limited scale and extent, including the loss of some key landscape characteristics or elements. Nonetheless, I disagree that the residual effect would be of a low adverse level in terms of magnitude. This has been suggested on the basis that the development would form a logical southern extension to Walberton. However, whilst the development would be close to the settled edge of the village, I have noted that the paddock area currently provides a degree of separation.
22. The significance of the landscape effect overall is greater for the site context than the site itself, noting that the site context contributes to the setting and identity of Walberton as part of the approach to the village. On the basis of the 'medium sensitivity' of the site context and the 'medium adverse' magnitude of change, it is appropriate that I conclude that there would be a moderately adverse effect. This is defined as being of local importance, causing a noticeable difference in the landscape, but not generally significant. Whilst the Council considers that the landscape effect would be major adverse, as this typically relates to change that would completely alter landscape character, my view is that this exaggerates the effect of what would be a reasonably contained development. The effect on the LCA would be minor adverse as this would be a relatively modest loss to the landscape character of the wider area.
23. Looking at the visual effects of the development, there is a little more consistency between the parties positions. From the filtered viewpoints along the PROW to the south the appeal development would appear as a conspicuous addition, in stark contrast to the open field. This would generate moderate to major visual adverse effects during construction, reducing to moderate in the operational phase, and a minor to moderate adverse residual effect when the development and its landscaping become established. Similar conclusions can be drawn in relation to the effect on views from the permissive path, though the proposed formalisation of this route, the close-range nature of views into the site, and the presence of construction traffic would suggest a major adverse effect during the construction phase, reducing to moderate adverse residual effects.
24. The parties agree that there would be a moderate adverse visual effect for views from Yapton Lane during construction. This would reduce to a minor adverse residual effect over the longer term, noting the screening from the tree belt and that the sinuous route of the road access would avoid direct views of

housing from Yapton Lane. Residential receptors, most notably the residents of the Walberton Place, would experience major to moderate adverse effects during construction, reducing to moderate adverse once the development and its landscaping become established.

25. Summing up, the landscape effects of the development would be significant at the level of the site and its local context, but much less so for the wider LCA. Additionally, whilst the identified visual effects would again be significant, the relatively contained nature of the site means that vantage points are limited in number. Overall, there would undoubtedly be a moderate level of harm to the local landscape by virtue of the loss of open agricultural land and the introduction of an urbanising form of development, however the nature of the landscape and visual harm would be localised and limited
26. I reach this view having considered the Council's Leisure and Landscape Officer comments on the application. On initial reading these comments appear to offer support for the proposal in landscape terms, suggesting that the design of the site should promote a high-quality development that respects, maintains and enhances local landscape character. Nonetheless, closer consideration reveals that no comment is made on the landscape value of the site and its context, nor how this would be impacted by the scheme. Such comments are therefore of little relevance to this matter.
27. Comparisons have been made between the landscape assessment of the appeal site and that of other sites during the decision-making process. These may be located within the same LCA and in general terms be of a similar nature to the appeal scheme, that is residential development on greenfield sites adjacent to settled areas. However, given the variations in site circumstances and local contexts, such comparisons do not assist with reaching conclusions on landscape matters.
28. The reasons for refusing the application refer to conflict with Local Plan Policy D SP1 which requires development to reflect the characteristics of the site and local area in terms of matters including landscaping, density and scale, as well as massing, materials and finish. Local Plan Policy D DM1 is also referenced which similarly refers to aspects of form and design quality within built development, requiring that development 'make best possible use of land by reflecting or improving upon the character of the site and the surrounding area.' The detailed design matters referred to in these Policies are generally not of relevance to an outline scheme of this nature. Nonetheless the principles relating to the need for the development to reflect the character of the site and surrounding area are relevant to the appeal. To the extent that I have found harm in these regards, there would be conflict with Policies D SP1 and D DM1. For the same reason there would be conflict with the National Planning Policy Framework (the Framework) paragraph 174b), which requires development to respect the intrinsic character and beauty of the countryside.
29. I have considered the suggestion that there is additional conflict with the NP Policy VE13. However, the Policy wording refers to the need to respect and enhance specific views and vista, none of which relate directly to the appeal site. The supporting text also refers to open fields adjacent to built-up areas being important elements of the village landscape which should not be regarded as expendable. However, this represents an additional criterion as it

is not referred to in the Policy wording. As such, any conflict with such provisions cannot be said to have the force of the Policy itself.

### *Settlement gap*

30. Local Plan Policy SD SP3 sets out that the generally open and undeveloped nature of specific gaps between settlements, as identified on the Policies Map, will be protected to prevent coalescence and retain their separate identities. The Barnham to Walberton Gap (the Gap) focuses on the network of large-scale arable fields between Walberton and Barnham.
31. Policy SD SP3 only permits development where it meets a number of criteria. These are that a) it would not undermine the physical and/or visual separation of settlements; b) it would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development; c) It cannot be located elsewhere. Further criteria are that development maintains the character of the undeveloped coast, or a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation. This Policy is not intended to rule out all development, rather the supporting text indicates that it allows for appropriate small-scale development, sited and designed to minimise the impact on the openness of the gap.
32. The parties agree that Policy SD SP3 is a spatial planning policy. It is a well-established policy approach focusing on protecting the distinctive and separate identities of settlements. It is not a landscape 'designation', and as such is not an indicator of landscape condition, quality, or value. Whilst the application of this Policy requires consideration of land within the gap in terms of its nature, its relationship with the settlements and the implications of development for it, such an assessment aligns with, rather than duplicates, landscape character considerations.
33. Before considering the nature of the Gap it is necessary to address the disagreement between the parties about where these settlements start and end. The core of the settlement of Barnham is located to the south-west of Walberton, with ribbon development extending east along Lake Lane petering out as it progresses away from the BUAB towards Yapton Lane. The point at which it can no longer be considered as part of the settlement is difficult to say precisely, though Todhurst Cottages appear to be at the fringe of the settlement, with the area beyond having a sense of being rural hinterland. This is somewhat beyond the BUAB. Therefore, whilst there is no 'clear break', there is a definite sense of having left Barnham along Lake Lane.
34. The arrival into Walberton along Yapton Lane is most clearly apparent at the entrance to DM Chainsaws, with built form to the west and the arrival at the junction with The Street closely followed. The BUAB boundary follows the rear of properties on The Street. Beyond this, the area of paddock land to the south of The Street, and to the north of DM Chainsaws/Walberton Place, forms a transition between the built character of the village and the countryside to its south. Therefore, whilst in my view DM Chainsaws/ Walberton Place are associated with Walberton village, the paddock area creates visual separation.
35. The Gap itself encompasses agricultural land extending northeast from the BUAB of Barnham to adjoin the BUAB of Walberton. There is clearly a logic to using the BUAB as the starting point for defining the Gap, noting the role of such boundaries in defining the extent of settlements. This Gap is described in

the Landscape Study as comprising the 'partially enclosed large scale arable landscape with glasshouses and horticultural land uses around Barnham.' Whilst much of the horticultural/nursery activities to the south of Walberton are excluded from the Gap, they are not obviously part of either settlement area, noting that activity of this nature is not unusual in rural areas. Further, the horticultural area extends to the east and south, away from the area of greatest significance between the settlements in terms of defining their individual extent.

36. It is relevant to note that the recommendation of the Landscape Study to extend the existing Gap further east to Yapton Lane was adopted. This was because the existing Gap edge was indistinct in that it did not relate to a robust boundary on the ground. As things now stand Yapton Lane the eastern extent on the Gap, including the field within which the appeal site is located. Whilst there is a logic to establishing clear boundaries, it does not necessarily follow that this additional land provides a similar level of contribution to maintaining the Gap as land further west. The Landscape Study rationale for inclusion of this area makes no reference to it supporting the physical or visual separation of the settlements. This is unsurprising, noting that this additional area extends further away from what can reasonably be considered as forming the edge of Barnham village. This is not to say that the additional area does not serve any function in terms of maintaining the Gap. Rather, its purpose is to define and contain the areas of sensitivity and significance in gap terms, particularly that to the south of the Church and Walberton House. The importance of this area in maintaining the Gap must be considered on this basis.
37. The appeal scheme would not represent the small-scale development which may be permissible under Policy SD SP3. It would clearly result in the physical alteration of the Gap. Built form would occupy a relatively large proportion of the Gap as it adjoins the Yapton Lane frontage which, at around 400m, is already narrow. The Council estimates that the appeal site area covers between 13-35% of this part of the Gap. The appellant's measurements of the Gap spans between the BUAB of the settlements, suggesting that there would be a 13% Gap reduction. This analysis better represents the spatial extent and purpose of the Gap as it includes the large-scale fields to the south-west of Walberton. These fields are of great importance to the spatial separation of the settlements. The use of the BUABs rather than the Gap boundaries as the basis for the appellant's measurements does underestimate the reduction resulting from the appeal scheme, though not to a significant degree.
38. Turning to visual matters, the Council analysis places particular emphasis on the visual gap along Yapton Lane, noting that this is one of the main approaches to Walberton from the south, and that it connects with the open countryside on either side, thereby contributing to the rural character of the setting of Walberton. In this context it is noted that the allotments and field containing the appeal site provide the only area of completely unimpeded relief from development along the western side of Yapton Lane. However, I have noted that this is some distance from the edge of Barnham, with significant horticultural and other development in the intervening area, an area which has not been identified as being of importance to the Gap function. Further, Gap policy seeks to protect the space between the settlements, rather than the character and identity of specific settlements. The latter is protected by other policy provisions.



39. Focusing on the effect on the visual separation of Walberton and Barnham, at present the smaller more enclosed field pattern close to Barnham, the green houses and the tree cover combine to preclude both intervisibility and intravisibility between these settlements. Whilst Walberton Place and DM chainsaws are visible elements within the Gap, they do not appear as part of the settlement edge when viewed from the south.
40. The development would have the effect of extending the settlement edge of Walberton, such that it would be visible across the narrow eastern section of the Gap from the allotments and the PROW. In this sense it would fore-shorten views across this part of the Gap. It would also interrupt views across the open land of the Gap from Yapton Lane and the permissive path. However, for the reasons previously given, I do not agree that the area of horticultural and other development beyond the southern boundary of the Gap, that is directly to the south of the allotments, can reasonably be regarded as forming the outskirts of the settlement of Barnham. Therefore the development would not lead to a reduction in the perceptual gap between these settlements.
41. Summing up, residential development of the nature proposed cannot be considered small scale. It would extend the settlement of Walberton into the eastern part of the Gap both physically and visually. As a result it would erode the degree of visual openness here, including the extent of the rural setting of Walberton. Looking specifically at the requirements of criteria b) of Policy SD SP3, in this sense there would be some conflict with the requirement that the integrity of the Gap should not be compromised. Nonetheless, the degree of conflict would be moderated by the fact that I have found that this part of the Gap to be of lesser importance in defining the separation between Walberton and Barnham than the land further to the west. As a result, whilst the appeal development would reduce the undeveloped extent of this part of the Gap, it would not lead to a significant erosion of the physical or visual separation between the two settlements. In this regard I do not find conflict with criteria a) of Policy SD SP3.
42. Turning to criteria c) and the question of whether the development could be located elsewhere, it is relevant to refer to the current constraints on housing delivery in the District, a point to which I return below. By any standards the Council is facing a serious and persistent housing crisis. In these circumstances there is nothing before me to suggest that this development could be accommodated elsewhere.
43. Of the final two criteria, this is not an allocated site and so the question of whether the development would maintain the character of the undeveloped coast remains. On the basis that the site is some distance from the coast I do not find conflict in this regard.
44. To conclude on this matter overall, there would be a moderate degree of landscape and visual harm to the intrinsic character and beauty of the countryside. This would be localised and limited in extent. In this regard there would be some conflict with Local Plan Policies D SP1 and D DM1 and the Framework Paragraph 174b). There would also be an incursion into the Barnham to Walberton settlement Gap resulting an element of conflict with Policy SD SP3, though overall there would be large degree of compliance with the requirement to maintain the separate identity of these settlements.

### ***Agricultural land***

45. The appeal scheme would result in the loss of some 2.46 hectares of agricultural land which is currently in arable use. This has been classified as Grade 1 Best and Most Versatile (BMV) agricultural Land and is therefore of excellent quality. The appellant has sought to demonstrate that there are some constraints associated with the economic productivity of this land, suggesting that as a standalone parcel it is marginally feasible, though there is no compelling evidence to suggest that it cannot continue to be actively farmed.
46. It is agreed that the loss of BMV agricultural land would result in conflict with Local Plan Policy SO DM1. This sets out that the use of Grade 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land for the long term. This must be demonstrated through sustainability and options appraisals.
47. These provisions are more restrictive than the Framework paragraph 174b) requirement to 'recognise' the economic and other benefits of BMV agricultural land. The Council refers to the fact that Inspectors have reached different conclusions on consistency between Policy SO DM1 and the Framework. However, in the absence of a five year supply of housing land, the parties agree that moderate weight should be given to the loss of Grade 1 agricultural land in the planning balance. Based on the evidence before me, I agree. It is therefore not necessary to explore this matter further.

### ***Housing land supply***

48. The Statement of Common Ground sets out that the Council has 2.4 years supply of housing land. The most up to date assessment is set out in the Draft Annual Monitoring Report published in January 2023. This concludes that the supply level is 2.36 years, equating to a shortfall of over 6,000 homes over the next 5 years. This situation has worsened from the 3.3 years supply identified in 2021. The housing delivery test for the District has also been below 70% since the Local Plan was adopted in 2018. This is evidence of a significant and persistent housing crisis in the District. In these circumstances the presumption in favour of sustainable development set out at paragraph 11 d) of the Framework must apply. In considering the significance of this situation it is also relevant to review the measures in place to address housing delivery.
49. The Local Plan refers to the intention to 'immediately' commence production of a non-strategic site allocations DPD for those parts of the District not covered by, or committed to, the preparation of an up-to-date Neighbourhood Plan. The DPD has not been progressed. I understand that the reviewed Walberton NP was made in 2021, however there is no evidence before me to suggest that the housing numbers included within this Plan were subject to significant examination as part of this process.
50. The Local Plan also sets out that if annual housing delivery is less than the annualised requirement in two consecutive years a partial review would be undertaken. This has not been progressed. I understand that a proposed review has been paused pending the changes signalled in the Levelling Up and Regeneration Bill.

51. The specific measures put into place by the Council in order to address delivery issues include the Housing Delivery Action Plan, produced in 2019 and updated in 2021. It reviews the reasons for such issues including infrastructure delivery constraints, poor-quality planning applications and other market factors. A series of recommendations to overcome such barriers and boost delivery include inviting applications from landowners of deliverable sites, targeting pre-application discussions to improve the quality of applications and applying the presumption in favour of sustainable development in decision making.
52. The Council also published an Interim Policy Statement for Housing Delivery in February 2021, which similarly aims to identify suitable sites and to speed up decision making. Specifically, it applies to non-allocated brownfield and greenfield sites outside but adjacent to settlement boundaries. A checklist of criteria is based on national and local policy considerations and applied as a red/amber/green rating, seeking to provide a balancing tool to maximise green, justify amber and avoid or minimise red 'ticks'. It is not intended to replace policy but to guide developers and inform planning decisions.
53. Using this approach the Council suggests that the appeal site attracts five red ticks against the 40 criteria. This includes red ticks in relation to national habitat, landscape or heritage designations, none of which were reasons for refusing the planning application. It is therefore suggested that the site is not suitable for development. However, there is no evidence of the 'balancing' across the range of criteria in order to reach this conclusion.
54. A higher-level assessment of the availability and achievability of sites is set out in the Housing and Economic Land Availability Assessment (HELAA) of January 2022. This was on the basis of a 'call for sites' exercise. In assessing the wider field in which the appeal site is located the HELAA concluded that there were significant constraints associated with this site relating to the Gap policy and its heritage and landscape setting.
55. More generally, it appears that development in the District is constrained by a range of national and local environmental and planning designations, including the South Downs National Park and a series of other protective landscape and habitat measures. Furthermore, much of the District is rural and some distance from settlements and appropriate infrastructure.
56. Summing up, whilst the Council has sought to identify a 'roadmap of steps' to address the housing crisis, at this point in time there is no evidence to suggest that these provisions are generating the step change required to improve housing delivery. The assessment of the appeal site using the approaches identified reflects the difficulty of identifying suitably unconstrained sites based on existing policy measures. Furthermore, there is no prospect of a plan-led solution to this matter being in place in the short or medium term.

## **Other Matters**

### *Conservation area*

57. I have noted that the appeal sites northern boundary is partly contiguous with, and includes small sections of, the southern extent of the Walberton Village CA. The significance of the CA is derived from the historic and aesthetic values of its serpentine layout, its form reinforced by traditional boundary treatments. Similarly, the mix of period buildings exhibiting original architectural details,

decorative features and the use of traditional materials are of historic and aesthetic value, creating a distinctive and attractive streetscape.

58. The wider rural setting of the CA contributes to significance through the appreciation of the historic and continuing relationship of the village with the rural landscape beyond. There are limited opportunities to view this from within the CA, though the open land to the south of both the Church and Walberton House do provide some intervisibility. The field in which the appeal site is located can be seen as part of this setting in glimpsed and filtered views from PROW and Yapton Lane, however any intervisibility with the CA itself is limited. Walberton Place is a more prominent element of these views. The contribution of the appeal site to the significance of the CA setting is therefore modest.
59. The introduction of the built form of the appeal scheme would result in the loss of openness in views from the PROW and Yapton Lane on the approach to the CA, though as these views are already heavily filtered by trees any impact on the setting of the CA, and specifically its special interest and significance, would be limited. The existing tree belt to the north of the site which lies within the CA boundary would not be affected.
60. Overall I agree that the proposal would result in less than substantial harm to the heritage significance of the CA through changes to its setting. Noting the modest contribution of the site to the heritage significance of the CA, this would be at the lowest end of the spectrum. In accordance with the Framework paragraph 202 such heritage harm must be weighed against the public benefits of the proposal, a matter to which I return below.

*Other concerns of interested parties*

61. I have noted that the current NP was made as part of the development plan in 2021. As the appeal site is outside the BUAB the development would conflict with NP provisions. The Framework paragraph 14 sets out that in situations involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, providing that four criteria are met. This includes the requirement that the local planning authority has at least a three-year supply of deliverable housing sites, which is not the case here. Therefore the Framework paragraph 14 is not engaged and the application must be determined in accordance with paragraph 11d). Whilst this will be frustrating locally, it signifies the severity of the situation and the significance to be attached to the level of unmet housing need in the District.
62. That said, there is nothing before me to indicate that if this scheme were to proceed it would set a precedent for further development to the south of the village. Future cases would have to be considered in the light of their site specific and policy circumstances.
63. The appeal site is located close to the village of Walberton which has a modest range of services and facilities. Barnham, along with Eastergate and Westergate share a wider range of facilities, with Barnham also having a mainline railway station. Whilst the site is not remote, equally its location is not highly sustainable, meaning that residents of the appeal scheme would, to a large degree, be dependent on private transport to access the full range of services and facilities, as well as employment opportunities.

64. Whilst at this stage the level of car parking provision is not indicated, this would be established at the reserved matters stage. There is nothing before me to suggest that the scheme would exacerbate local parking stress.
65. Concerns raised regarding the potential ecological and biodiversity impacts of the development, particularly in terms of bats in the woodland belt to the east, have been addressed in updated information submitted at appeal stage. This demonstrates that this area is of significance for foraging and commuting bats, such that without mitigation the appeal scheme would cause a moderate adverse level of impact. Whilst mitigation measures would be considered further as part of detailed design, at this stage it is envisaged that further landscape buffers, a requirement that development be set 5m away from the tree belt and conditions to address lighting would mitigate any adverse effects.

### **Planning Obligations**

66. The Section 106 Agreement would provide for 30% affordable housing. This would accord with the Local Plan Policy AH SP2 requirement that 30% affordable housing should be sought on development of 11 units or more. The Section 106 Agreement would also secure the management and maintenance of public open space and play facilities, which would comply with the requirements of Local Plan Policy INF SP1 relating to infrastructure provision and implementation.
67. In the light of policy requirements, I am satisfied that these obligations would be necessary to mitigate the effects of development and to make the development acceptable in planning terms. I also agree that they would be directly related to the appeal development, and fairly and reasonably related to it in scale and kind. Accordingly, they would meet the tests set out in paragraph 57 of the Framework and in Regulation 122 of the CIL Regulations. On this basis I have taken them into account in reaching my decision.

### **Planning balance and conclusions**

68. The starting point for decision-making is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which establishes that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan here is comprised of the Local Plan and the NP. As a starting point I have found some conflict with Local Plan Policy C SP1 and NP Policy HP1 relating to countryside protection, Local Plan Policies D SD1 and D DM1 relating to design matters, Local Plan Policy SD SP3 relating to settlement gaps and Local Plan Policy SO DM1 relating to soils and agricultural land.
69. The provisions of the Framework relating to housing land supply are material in this case. Paragraph 11d) and footnote 8 indicate that in these circumstances the policies which are most important for determining the application are out of date. That said, the Framework paragraph 219 sets out that due weight can be given to such policies according to their degree of consistency with policies in the Framework. The Framework does not prescribe the weight to be given to conflict with development plan policies, which must be based on consideration of the purpose of the policy and the circumstances of the case. In terms of the balance, I consider firstly the benefits of the development followed by the adverse impacts before concluding overall.

### *Benefits of the development*

70. The five-year housing land supply situation is an indicator that the future needs of local people will not be met. Further, there is no prospect of this situation being resolved in the short or medium term through the plan-led system. On this basis the parties agree that the highest possible weight should be attached to the acute need for market housing in the District. There is also significant need for affordable housing within the District, with over 1,000 households currently on the Council's housing register, having risen from 900 in 2018.<sup>5</sup> As a greenfield site it is likely that housing development here could be delivered within 5 years, thereby assisting with current housing land supply issues. I therefore give substantial weight to both the provision of market housing and also the provision of up to 14 affordable homes.
71. In terms of housing mix, whilst the Local Plan Policy H DM1 requirement relating to a balanced mix of housing types and sizes applies only to developments of over 11 dwellings, NP Policy HP6 has a similar requirement and with no minimum size. Therefore, as this is a policy requirement, a benefit of at most modest weight can be attached to the provision of a mix of dwellings to meet local need.
72. Turning to the question of whether development in a sustainable location attracts beneficial weight, I have noted that whilst the site is not remote this is not a highly sustainable location. Any benefit in this regard would therefore be modest.
73. The economic benefits of the proposal would include the creation of jobs and other spin off benefits to the local economy during the construction period. There would also be ongoing additional expenditure in the local economy from new residents. It is agreed that any benefits from the dentist/doctors surgery would fall into this category. Whilst such benefits are in the main common to developments of this nature, I nonetheless both construction stage and ongoing economic benefits moderate weight.
74. The provision of public open space is referred to as a benefit, as is the sustainable drainage scheme, with the consequential likely reduction in surface water run-off and associated off-site flooding. These matters are primarily intended to address the impact of development and respond to the needs arising from it. Nonetheless modest weight can be attached to these social and environmental benefits. Further benefit would attach to ecological improvements, noting the estimated 12% Biodiversity Net Gain (BNG) the development would bring, attracting moderate weight in favour of the appeal scheme.

### *Adverse impacts of development*

75. The weight to be attached to the conflict with Local Plan Policy C SP1 and NP Policy HP1 relating to development in the countryside must be considered in relation to the lack of five-year housing land supply. The rigid application of policies seeking to restrict the spatial distribution of development to within the BUABs has certainly contributed to the current supply position. There is some consistency between the provisions of these Policies and the Framework paragraph 174b) in terms of recognising the intrinsic character and beauty of

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<sup>5</sup> CD 1.17 Arun District Council Housing and Homelessness Strategy 2018, Section 4.1

the countryside. Nonetheless in the circumstances of this case, noting the uncertainty around how the Council intends to address the housing shortfall, I attach no more than moderate weight to the conflict with these policies.

76. Whilst Local Plan Policies D SD1 and D DM1 relate in the main to design matters, I have found some conflict with provisions relating to the effect of the development on the character of the site and local area. These policies are consistent with the Framework insofar as they seek to make efficient use of land and ensure that new development is sympathetic to local context and character. On the basis that I have concluded that the development would cause a moderate level of landscape and visual harm which would be localised and limited in extent, my view is that the conflict with these policy provisions should be accorded moderate weight in the planning balance.
77. As noted previously, it is agreed that the conflict with Local Plan Policy SO DM1 relating to development on BMV agricultural land should attract moderate weight in the overall balance.
78. Local Plan Policy SD SP3 seeks to restrict development in the countryside by protecting settlement gaps. There is some consistency between this Policy and the provisions of the Framework paragraphs 174b) and 130c) and d) in terms of protecting settlement character. Its requirements are more specific and tightly drawn than the BUAB, and there is no evidence of this specific provision preventing the Council from achieving a five-year housing land supply. Nonetheless, it has the effect of constraining the spatial distribution of housing in sustainable locations close to settlements. In light of the acute housing land supply position, it should therefore be given reduced weight. In this case I have found some limited conflict with Policy SP3 provisions. Overall I accord no more than modest weight to the conflict with this Policy.
79. The harm to the significance of the setting and small incursion into the Walberton Village CA would be less than substantial and low level. Although great weight should be given to the conservation of designated heritage assets, the identified public benefits would outweigh the harm on this occasion. There would be no conflict with the Framework paragraph 202 and the clear and convincing justification required by paragraph 200 would be demonstrated. Therefore, in these circumstances, the development would have an acceptable effect on the significance of the CA and its setting.

### *Conclusion*

80. I have reached my conclusion based on the harms and benefits identified, as well as all of the other matters raised. On the one hand I have identified conflict with development plan provisions relating to the protection of the countryside, landscape, settlement gaps and agricultural land. For the reasons given these harms attract moderate and modest weight. Set against this the housing benefits identified are of substantial weight, delivering positively against the requirements of the Framework, with other benefits attracting further moderate and modest beneficial weight. In the overall planning balance I find that the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Therefore, material considerations support a decision other than in accordance with the development plan.

## Conditions

81. I have considered the conditions suggested by the Council and appellant, as well as the advice set out in the Planning Practice Guidance. Where there is disagreement between the parties, I have indicated my position. Additionally, I have made some amendments in the interests of precision and enforceability, though this has not altered the aims and requirements of the conditions.
82. It is necessary to specify the reserved matters to be submitted for approval, the time limits for their submission and the subsequent implementation of the permission in accordance with the requirements of the Act (1,2). Conditions specifying approved plans, including site access and visibility arrangements, are necessary in the interests of good planning and highway safety (3,21,22).
83. A condition requiring that at least 10% of energy supply is secured from decentralised and renewable sources (4) is required to accord with the provisions of Local Plan Policy ECC SP2 in relation to energy and climate change mitigation. A condition requiring the provision of electric vehicle charging points (6) is necessary to support the forthcoming shift away from new petrol and diesel vehicles in support of the transition to a low carbon future. It also meets the requirements of Local Plan Policy QE DM3c). A condition requiring that the appeal dwellings be provided with high-speed broadband (7) is necessary to support the amenity of future residents, including supporting opportunities for home working.
84. A condition requiring that an acoustic assessment be undertaken to determine the noise associated with the adjacent chainsaw business, along with details of an appropriate scheme of mitigation for the appeal properties (8), is necessary to protect the amenity of future residents by guarding against noise complaints. Similarly, conditions requiring the scheme to demonstrate that the appeal dwellings would comply with appropriate internal and external noise levels (12,13) are also required to protect the amenity of future residents.
85. Conditions relating to a scheme of works investigating the possibility of land contamination (9) and the procedure for dealing with unexpected contamination (10) are necessary to protect the amenity of local residents. A condition setting out permitted construction hours (11) is required for the same reason.
86. A condition relating to the provision of a Construction and Environment Management Plan (5) is required to protect the local environment during the construction period, particularly wildlife habitats and green infrastructure. Similarly, conditions requiring ecological mitigation measures to be carried out (14), setting out the requirements for circumstances in which works could impact on protected species (15), requiring the submission of a Biodiversity Net Gain Design Stage Report (16), requiring a Construction Environmental Management Plan for Biodiversity (17) and a Biodiversity Enhancement Strategy (18) are necessary to protect and enhance biodiversity and comply with legal duties in relation to protected species. For the same reasons it is appropriate to require conditions relating to a wildlife sensitive lighting design scheme (19) and a Landscape and Ecological Management Plan (20).
87. A condition requiring the agreement of the specification for, and implementation of, the improvements to the permissive path (23), is necessary to manage the impact on protected trees and to provide improved pedestrian



access. A condition requiring that the improvements to the A27/Yapton Lane junction are put into place prior to the occupation of the development (30) is required in the interests of highway safety. To promote active travel and improve road safety a condition requiring a travel plan (31) is necessary.

88. As the site is located within a Minerals Safeguarding Area it is necessary to include a condition requiring a scheme for the incidental extraction of safeguarded mineral resources underlying the site (24), in accordance with Policy M9 of the West Sussex Joint Minerals Local Plan. Conditions relating to foul and surface water drainage (26,27,28,29) are required to ensure that the development makes provision for satisfactory disposal of foul and surface water and to reduce flood risk. In order to ensure sustainable re-use of soils a condition requiring the provision of a soil resource plan (34) is necessary. To protect as yet unknown archaeology, a condition requiring a programme of archaeological work in accordance with a written scheme of investigation (35) is required.
89. A condition requiring details of how the scheme would meet the requirements for older persons housing be submitted at reserved matters stage (25) is necessary to ensure that the needs of the community are met. Conditions setting out details of the delivery of the dentist/doctors surgery (32,33) are required to ensure that the provision of this facility is managed in accordance with Local Plan Policy INF SP1, and to protect residential amenity.
90. Some conditions are pre-commencement (4,5,7,8,9,12,13,14,15,16,17,24, 34,35) as they concern matters that need to be addressed and/or provided before works begin on site.
91. The Council have suggested a condition requiring an Air Quality Impact Assessment. Whilst Local Plan Policy QE DM3 requires such an Assessment within Air Quality Management Areas, it is not apparent that this should apply to all major developments. Rather, Policy QE DM3 requires that the impacts of development should be considered in terms of maximising walking, cycling and public transport use, providing for electric vehicles and supporting improvements to the highway network where the development could contribute to congestion. In my view these requirements would be met. As such it is not necessary to apply this condition.

### **Overall Conclusion**

92. For the reasons set out above I conclude that the appeal should succeed.

*AJ Mageean*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Thea Osmund-Smith and Odette Chalaby	Instructed by Peter Cleveland for Henry Adams LLP
They called:	
Peter Cleveland BSc, MSc MRTPI	Partner, Henry Adams LLP
Clare Brockhurst FLI, BSC (Hons), Dip LA	Director, Leyton Place Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Andrew Parkinson	Instructed by Arun District Council
He called:	
Karen Jones BA (Hons), MCD, MRTPI	Senior Director RPS Group Ltd
Robyn Butcher BA (Hons), Dip LA, FLI	Director, The terra firma Consultancy
Juan Baeza	Planning Team Leader, Arun District Council (for Conditions/Planning Obligation discussion)

### INTERESTED PARTIES:

Matthew Litchfield	Director of DM Chainsaws
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### DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appearances for the Appellant.
2. Updated Core Documents list.
3. Opening Statement for the Appellant.
4. Opening Statement for the Council.
5. Copy of the dated and certified Planning Obligation.
6. Updated Conditions Schedule

### DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Updated Conditions Schedule.
2. Closing Statement from the Council.
3. Closing Statement for the Appellant

## **Schedule of conditions**

1. The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended). An application to the local planning authority for approval of the following matters must be made not later than the expiration of 2 years from the date of this permission: Scale; Layout; Appearance; Landscaping (hereafter referred to as "the reserved matters").
2. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. The development including the access hereby approved shall be carried out in accordance with the following approved plans:
  - 20-1092-001-A Site Location Plan
  - 21xx\_P01 Parameters Plan
  - 5478/002 Rev. F Proposed Access
4. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources unless it can be demonstrated that a fabric-first approach would achieve an equivalent energy saving. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority before any development in that phase begins. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.
5. No development shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the construction period. The CEMP shall include the following matters:
  - a. An indicative programme of works;
  - b. Details of proposed construction hours;
  - c. Details of public engagement and consultation prior to and during the works;
  - d. Measures to minimise noise and vibration (including working hours, piling methods, selection of plant/machinery and noise barriers);
  - e. Floodlighting details;
  - f. The number, frequency and types of construction related vehicles;
  - g. Access and routing of construction vehicles;
  - h. The parking of vehicles of site operatives and visitors;
  - i. Loading and unloading of plant, materials and waste;
  - j. Storage of plant and materials used during construction;
  - k. The erection and maintenance of security hoarding;
  - l. The provision of wheel washing facilities and any other measures to mitigate the impact of construction on the public highway;
  - m. Measures to control the emission of dust and dirt during construction;
  - n. A scheme for recycling/disposing of waste.
6. Prior to the occupation of any dwelling, a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved in writing by the local planning authority. The

development shall be carried out in accordance with the approved details and the charging points shall thereafter be permanently retained in good working condition.

7. No dwelling shall be occupied until a strategy for the provision of the highest available headline speed of broadband services to serve the permitted dwellings has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved strategy.
8. No development shall commence until an acoustic assessment has been undertaken to determine the impact of noise from commercial related noise sources (including DM Chainsaws) on the proposed dwellings. The results of the assessment and details of a scheme of mitigation measures necessary to ensure an appropriate level of aural amenity within habitable rooms and amenity in garden areas shall be submitted and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.
9. Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the local planning authority.
  - a. A Preliminary Risk Assessment which has identified: all previous (historical) 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.
  - b. A Site Investigation Scheme, based on (a) above to provide information a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - c. Based on the Site Investigation Scheme and the detailed risk assessment (b), an options appraisal and remediation strategy giving full details of the remediation measures and how they are to be undertaken.
  - d. A Verification Report 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.
  - e. Any changes to these components (a) to (d) require the express written consent of the local planning authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the local planning authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification

Report, and the for the reporting of this in writing to the local planning authority.

10.If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol/ diesel/ solvent odour, underground tanks (or associated pipework)) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the local planning authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The local planning authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the local planning authority for approval in writing before being implemented.

11.Demolition/construction activities shall take place only between the hours of 08.00 and 18.00 Monday to Friday inclusive; between 08.00 and 13.00 on Saturdays; and not at any time on Sundays or Bank/Public Holidays.

In addition to these hours of working the local planning authority may approve in writing a schedule of activities where it is necessary to conduct works outside the hours specified in this condition.

12.Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the 'Indoor ambient noise levels for dwellings' guideline values specified within Table 4 under section 7.7.2 of BS 8233:2014 shall be compiled by a competent acoustician on sound insulation and noise reduction for buildings and shall be submitted to and approved in writing by the local planning authority. The scheme should take into account the correct number of air changes required for noise affected rooms. The works specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

13.Prior to the commencement of the development hereby approved, a scheme to demonstrate that the external noise levels within the curtilage of residential units will conform to the 'Design criteria for external noise' upper guideline value of 55dB  $L_{Aeq,T}$  as specified within section 7.7.3.2 of BS 8233:2014 shall be prepared.

Guidance on sound insulation and noise reduction for proposed development shall be submitted to and approved in writing by the local planning authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

14.Prior to the commencement of development, mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment, (Ecosupport, October 2022) as already submitted with the planning appeal and agreed in principle with the local planning authority prior to determination.

This may 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.

15. Any works associated with the development which will impact the breeding / resting place of Dormice or Great Crested Newts, shall not in any circumstances commence unless the local planning authority has been provided with either:
  - a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
  - b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.
  
16. A Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), shall be submitted to and approved in writing by the local planning authority which provides a minimum of 10% measurable biodiversity net gain, using the DEFRA Biodiversity Metric 3.1 or any successor. The content of the Biodiversity Net Gain Design Stage Report should include the following:
  - a. Baseline data collection and assessment of current conditions on site;
  - b. A commitment to measures in line with the Mitigation Hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
  - c. Provision of the full BNG calculations, with plans for pre- and post-development and detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
  - d. Details of the implementation measures and management of proposals;
  - e. Details of any off-site provision to be secured by a planning obligation;
  - f. Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

17. Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP: Biodiversity shall include the following.

  - 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.

- i. Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP: Biodiversity 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.

18. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species on site, as set out in Ecological Impact Assessment (prepared by EcoSupport on 12 October 2022)), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a. Purpose and conservation objectives for the proposed enhancement measures;
- b. detailed designs or product descriptions to achieve stated objectives;
- c. locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d. timetable for implementation demonstrating that works are aligned with the proposed any phasing of development;
- e. persons responsible for implementing the enhancement measures;
- f. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

19. Prior to occupation of the development, an external lighting scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The approved 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.

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.

20. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development.

The content of the LEMP shall include the following:

- a. Description and evaluation of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g. Details of the body or organisation responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details and adhered to at all times.

21. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Land to the West of Yapton Lane' and numbered 5478/002 Revision F.
22. No part of the development shall be first occupied until visibility splays of 2.4 metres by 120 metres to the north and 125 metres to the south have been provided at the proposed site vehicular access onto Yapton Lane in accordance with the details shown on the drawing titled 'Land to the West of Yapton Lane' and numbered 5478/002 Revision F. 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.
23. No part of the development shall be first occupied until improvements have been undertaken to Permissive Route P23 in accordance with plans and details, which shall include a Construction Specification for the proposed surfacing works have been submitted to and approved in writing by the local planning authority.

The content of the Construction Specification shall include the following:

- a. Detailed plans to 1:100 or 1:200 scale showing clearly the proposed route which shall have a minimum width of 2m;
  - b. Details of the surfacing material to be used;
  - c. Detailed sections to show the method of construction;
  - d. Details of lighting proposed to the footpath;
  - e. Details of trees to be removed to enable construction;
  - f. Suitable tree protection measures to ensure that the works do harm retained and/ or TPO trees;
  - g. An ecological assessment to cover the area affected by the proposed enhancements.
24. Prior to the commencement of development, a scheme for incidental extraction of the safeguarded mineral resources underlying the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:
    - an assessment of the extent, volume and practicability for incidental extraction, which shall be based on detailed ground investigations; and
    - the methodology for which any identified incidental mineral extraction would be carried out, which shall include a detailed programme/phasing of extraction, and details of the proposed destination/use of the mineral.



25. Detailed plans and particulars of the Reserved Matters submitted to the local planning authority for approval shall ensure that the scheme makes provision for accommodation to meet the Building Regulations Standards M4(2) and M4(3) in accordance with the council's guidance note entitled "Accommodation for Older People and People with Disabilities Guidance".
26. Prior to the commencement of construction works details of a proposed foul drainage system shall be submitted to and approved in writing by the local planning authority (including details of its siting, design and subsequent management / maintenance) and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.
27. Development shall not commence, other than works of site survey and investigation until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water drainage system serving the development has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
28. Development shall not commence, other than works of site survey and investigation until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the local planning authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
29. Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.
30. No part of the development hereby permitted shall be occupied until the improvements to the A27/ Yapton Lane junction shown on drawing ITB11324-GA-014 Revision C (within Transport Statement produced by Bellamy Roberts dated January 2023, ref ITR/5857/TS.2) are opened to the travelling public.
31. Prior to the first occupation of any dwelling hereby permitted a detailed Travel Plan, to ensure the reduction of trips and promote active travel, shall be submitted to and approved in writing by the local planning authority and

thereafter fully implemented. The Travel Plan shall include details regarding responsibilities and arrangements for monitoring, review, amendment and effective enforcement in perpetuity.

32. As part of the approval of the reserved matters, the following shall be submitted to and approved in writing by the local planning authority in respect of the dentist / doctor surgery building:
- a. A scheme and specification for the dentist/doctors surgery building.
  - b. Details of proposed marketing for a minimum period of 6 months. The details should include when/where/how the marketing is to take place.

In the event the site is not successfully let / purchased following the 6 month marketing period and a four month period for completion of the contract for the sale/letting of the building, the land will revert to open space and be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme shall be submitted to the local planning authority within 2 months of the end of the 6 month marketing period if no expressions of interest have been received or within 2 months of the additional 4 month period if the sale/letting is not finalised and delivered within 6 months of any approval from the local planning authority.

The dentist/doctor surgery building shall be provided in accordance with the approved details, prior to occupation of the 30th dwelling.

33. The use of the dentist/doctors building shall only fall within Class E (e) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purposes.
34. No development shall commence until a Soil Resource Plan has been submitted to and approved in writing by the local planning authority. This shall set out how soils on the site are to be protected during construction and then recycled/reused in the new development layout. The soil protection/mitigation measures shall be implemented as per the document and then permanently adhered to throughout the construction and development of the site.
35. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.