



Appeal Decision

Hearing Held on 13 October 2021 and 29-30 March 2022

Site Visit made on 30 March 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2022.

Appeal Ref: APP/L3815/W/20/3255383

**Earnley Concourse, Clappers Lane, Earnley, Chichester, West Sussex
PO20 7JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Summix ECC Developments Limited against Chichester District Council.
 - The application Ref 19/02493/OUT, is dated 23 September 2019.
 - The development proposed was originally described as 'Demolition of Earnley Concourse buildings, Elm Lodge and the Ranch House and replacement with residential development (Class C3) together with the retention of the façade of Gate Cottage and the change of use of Earnley Place to Class C3 residential use, with associated access (including the reinstatement of the original drive to Earnley Place), landscaping, open space and drainage infrastructure. All matters are reserved save for access'.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of Earnley Concourse buildings, Elm Lodge and Gate Cottage, and replacement with residential development of up to 30 no. dwellings with associated access and footway works, landscaping, open space and drainage infrastructure at Earnley Concourse, Clappers Lane, Earnley, Chichester, West Sussex PO20 7JN in accordance with the terms of the application, Ref 19/02493/OUT, dated 23 September 2019, and subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Summix ECC Developments Limited against Chichester District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the access into the site¹. I have assessed the proposal on this basis and treated the drawings as simply illustrating one way thirty homes could be configured in the appeal site.
4. The hearing was adjourned on the 13 October 2021 principally to allow the Council to undertake consultations that it had originally missed (including with the Royal Society for the Protection of Birds (RSPB) and Historic England) and

¹ 'Access' in terms of circulation routes around the site is a reserved matter

the appellant to notify the owners of Earnley Place of the application (and complete Certificate B on the application form). The hearing was subsequently adjourned again on the 30 March 2022 to allow me to reconsult Natural England (NE) on new matters that had been raised by the Council at the hearing. NE's comments were shared with the Council and appellant and, once an opportunity had been given for them to respond, the hearing was closed.

5. The change of use of Earnley Place to a dwelling was approved by the Council before the hearing opened. As a result, this part of the proposal is no longer before me. The original description of development did not refer to a quantum of homes, so the Council and appellant agreed through the Statement of Common Ground (SOCG) that the proposal is for up to 30 dwellings. The description of development has been changed to reflect these points.
6. A revised drawing was submitted with the appeal altering the length of the proposed pavement, so that it would terminate at Earnley Lodge as opposed to running past Earnley Church. Although schemes are not generally meant to evolve through the appeal process, I nevertheless accepted this revision as it was made early in the appeal process and reduced the extent of development proposed. Similarly, evidence was submitted during the hearing, and I accepted this as it was relevant, reasonably brief and capable of being addressed by the parties present. As a result, no party was prejudiced.

Main Issues

7. The Council failed to determine the planning application within the prescribed period and therefore the appellant exercised their right to submit the appeal. The Council has confirmed through putative reasons for refusal that, had it been able to do so, it would have refused the proposal due to concerns regarding the impact on the character and appearance of the area, heritage, European sites and infrastructure. The appellant's submission of a planning obligation at the hearing resulted in the Council removing its objections in respect of the latter. Accordingly, the main issues in this appeal are:
 - Whether the appeal site is an appropriate location for the proposed development, with reference to the spatial strategy in the development plan;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would preserve or enhance the character or appearance of the Earnley Conservation Area (CA) and the effect on the setting of the CA; and
 - The effect of the proposed development on European sites.

Reasons

The appropriateness of the location with reference to the spatial strategy

8. To conserve and enhance the quality of the environment, whilst delivering housing in locations close to services and facilities in a way proportionate to the settlement concerned, Policy 2 of the Local Plan² (LP) outlines a development strategy based around a settlement hierarchy. It aims to deliver most new housing at the largest settlements. These encompass the sub-regional centre of Chichester City followed by four Settlement Hubs. After this, small scale

² Chichester District Council Adopted Chichester Local Plan: Key Policies 2014-2029

housing development consistent with indicative housing numbers will be directed to the service villages. There is a general presumption in favour of sustainable development within the defined boundaries of these settlements.

9. However, the appeal site is not located within any of the settlements listed in the hierarchy. This is because the settlement capacity profile prepared by the Council concluded that Earnley is not considered suitable for future housing development due to the size, location and character of the Parish. As a result, the appeal site is in 'the rest of the plan area', where development is restricted to that which requires a countryside location or is in accordance with Policies 45 or 46 of the LP.
10. The erection of thirty open market houses does not require a countryside location and nor would it meet an essential, small scale and local need. Therefore, the proposal would be at odds with Policy 45 of the LP. Moreover, it would not fall within the scope of Policy 46 as the existing buildings would be demolished. As the proposal would not glean support from Policies 45 or 46, it would be contrary to Policy 2 of the LP.
11. An underlying aim of Policy 2 is to ensure development is proportionate to the settlement it would be located at. Earnley is a discernible settlement but its sits at the bottom of the hierarchy. The Council has explained that the 2011 Census records 214 dwellings in the Parish. Therefore a 30-home scheme would result in a 15% increase, which is much more than the planned increase of any other settlement on the Manhood Peninsula. The village of Earnley encompasses around 35 homes so the appeal scheme would almost double the size of the settlement. As a result, the appeal scheme would be a disproportionate addition that would harmfully undermine the settlement hierarchy.
12. However, the appeal scheme would be located close to the established settlement of Earnley³, would not prejudice a viable agricultural operation and, for reasons I will go into, could be designed to have a minimal net impact on the landscape and rural character of the area. As a result, the proposal would not offend the criteria in Policy 45. Moreover, and whilst not seeking to elevate supporting text to Policy, Paragraph 19.33 of the LP states that poorly designed buildings in the countryside may be suitable for replacement. All parties at the hearing agreed that the existing buildings are of poor quality and therefore the supporting text to Policy 46 is of some relevance.
13. Moreover, I share the view of the appellant that the criteria in Policy 2 of the LP which is used to guide development within settlement boundaries is of some bearing to my assessment. This is because although not directly relevant to a site outside a settlement boundary, considering these points nevertheless enables me to gauge the extent of any conflict with some of the underlying aims and objectives of Policy 2, such as conserving the environment and providing housing close to services and facilities.
14. To this end, and again for reasons I will go into, the proposal could respect the setting, form and character of the settlement when the current baseline (the existing unattractive buildings) is factored in. In addition, the Transport Assessment⁴ demonstrates that residents of the appeal scheme would have reasonable accessibility to local services and facilities in Bracklesham and East

³ For reason I go into later, I consider the site to be part of the settlement

⁴ See page 9-11 of the Transport Assessment

Wittering with the provision of the proposed footway. Accordingly, the Council, in consultation with the Local Highway Authority, has understandably not outlined a putative reason for refusing the proposal on these grounds.

15. Developing the appeal site would not result in coalescence of settlements as the housing would only be read as part of Earnley. However, a pavement would run along much of the length of Clappers Lane⁵ linking Earnley with housing on the edge of Bracklesham. It would be a suburbanising feature but would not appear stark because it would be positioned along the northern side of the road where ribbon housing and a large caravan park are already in place. The southern side of the road would retain undiminished views over open fields. In this context, the proposed footpath would not result in the harmful coalescence of settlements, as there would still be sense of leaving one village and entering another.
16. Furthermore, all parties at the hearing agreed that the appeal site presents an opportunity for some form of windfall development due to its location at Earnley and status as previously developed land. To this end, the Council's Housing and Economic Land Availability Assessment (HELAA) identified part of the appeal site as one that could possibly be developed, concluding that it was suitable and available for 22 homes, albeit in a 'policy off' assessment. When allowing for the larger appeal site, it is evident that thirty homes would be similar in scale to that envisaged in the HELAA. Although only a technical background study, it is a useful summary that identifies what an efficient use of land would encompass. Moreover, even the Parish Council's preferred housing figure for the site of around 15 homes would be a significant uplift in the size of the village.
17. In conclusion, the appeal scheme would be at odds with Policies 2, 45 and 46 when taken as a whole. It would therefore conflict with the spatial strategy in the development plan. In particular, the proposal would be at odds with the settlement hierarchy by being a disproportionate addition to the village of Earnley, which itself is a bottom tier settlement in the 'rest of the plan area'. This would harmfully undermine the consistency and direction that should flow from a genuinely plan led planning system. As a result, the appeal site is not an appropriate location for the proposed development with reference to the spatial strategy in the development plan. However, the weight I attach to the conflict is reduced because several of the underlying aims of the spatial strategy would not be offended, such as preventing coalescence, siting housing in locations accessible to services and facilities and conserving the environment. Overall, the policy conflict carries moderate weight.

The effect of the proposal on the character and appearance of the area.

18. Earnley is a small village located near Bracklesham but broadly surrounded by open countryside. It therefore has a predominantly rural context that gives it an identifiable character. Much of the village core comprises of low-density period style housing that faces the street and is positioned in spacious verdant plots in an informal layout. The settlement is devoid of estate housing.

⁵ I share the view of the Parish Council that a footpath/cycleway along the southern part of the appeal site linking up to a public right of way to the west could have been a better option. However, this is not before and neither the Council nor the Local Highway Authority have objected to the proposal in the absence of this feature.

19. The appeal site encompasses a collection of buildings of generally low architectural quality in a discordantly sprawling arrangement. Buildings within the appeal site are discernible from Earnley Church, which is the village centre, as well as the entrance to Drove Lane and other vantage points in the village to the northeast of the appeal site. Accordingly, the appeal site reads as part of the fabric of the village, albeit a generally alien one. The buildings also have a noticeable and harmful presence in the landscape in views from the south and east. The appeal scheme needs to be considered against this baseline.
20. The illustrative masterplan submitted by the appellant details one possible way the appeal site could be developed to provide thirty homes. There are some promising aspects such as the generous open space, the active edges of the southern perimeter block and the potential to retain landscaping along Drove Lane. However, the illustrative scheme would also have a reasonably conventional housing estate layout with similar houses set around cul-de-sacs. The properties would occupy plots that would be smaller than the village norm and there would be a proliferation of garages. The illustrative scheme would therefore appear relatively cramped and suburban, and this would jar with the spacious rural character and appearance of the village.
21. Moreover, there are some specific limitations with the layout detailed on the illustrative masterplan. Plots 17-20 would back onto Drove Lane and Plot 21 would be side on to it. This would result in the backs of properties being visible from Drove Lane⁶ and thus an insular inward facing layout would be presented. This would be at odds with the overriding grain of the village. This is a consequence, in part, of the northern portion of the site (Plots 5-20) failing to have the perimeter block structure evident in the southern block (Plots 21-30). Moreover, Plot 15 would appear cramped and provide Plot 16 with a poor outlook and the retained trees could be quite oppressive on the living conditions of the occupants of Plots 19-20. The use of a house type arranged over three floors at Plots 12 and 13 would also appear discordant and cramped.
22. The Council and appellant agree that the proposal would have a limited impact on landscape character given the existing built-up condition of the site. However, the Landscape and Visual Impact Assessment prepared by the appellant demonstrates that the visual impacts of the illustrative scheme would be different and, in my view greater, than the current buildings when seen in a broad arc taking from Viewpoints 1, 11 and 8. This is because the proposal shown on the illustrative layout would have the appearance of comparatively cramped suburban sprawl. In particular, the visual impact of the illustrative scheme would be greater than the site as it currently is because the housing would be two storeys in locations where existing development is single storey.
23. Moreover, the existing buildings have the simple form that is commonplace among buildings in rural areas, as is evident in the converted barns to the northeast of the appeal site. The visualisation from VP11 demonstrates that the illustrative scheme would have the appearance of a greater mass of development with less space around it. The housing would also have a cramped and jumbled composition and appearance when compared to the existing, largely due to Plot 21 being side on to Drove Lane, a greater use of two storey properties, the proliferation of garages and Plots 12 and 13 being discordantly tall. In this instance, breaking the massing down into multiple elements would

⁶ The existing landscaping would not screen these properties and could be replaced over time by fencing

increase the sense of bulk rather than creating open views through the site. Thus, the illustrative scheme would have a moderate net adverse impact on the character and appearance of the area.

24. However, the illustrative scheme is just that, it is not a formal proposal. Therefore, the question before me is whether a scheme of thirty homes would have an inherently greater net adverse impact on the area than the poor quality development that is currently on site. The Council believes so because the density of development would always be high relative to Earnley. That is true. However, a balance needs to be achieved between an efficient use of land and the desirability of maintaining an area's prevailing character.
25. In this respect, Paragraph 130 of the National Planning Policy Framework (the Framework) explains that proposals should be sympathetic to local character but not prevent change such as increased densities. The appeal scheme would have a density of around 30 dwellings per hectare (dph), which would be high in the context of Earnley but is not a high density in and of itself. This is especially so given the baseline of the extent of development that is already within the appeal site.
26. With this in mind, the appellants have analysed how many homes could be delivered when applying the Nationally Described Space Standards to the gross internal floor area of the existing buildings. Something in the region of 70 two-bedroom homes⁷ could be provided on this measure. This is of course a crude analysis and there is no extant permission for a residential conversion in any event. Nevertheless, the assessment demonstrates that Earnley Concourse can already be considered a high-density development relative to the village.
27. Moreover, measuring density is a blunt instrument. For example, the density of the scheme shown on the illustrative masterplan could be markedly reduced without significantly altering the number of buildings by simply substituting the semi-detached house types for detached properties.
28. Thus, when having regard to the existing quantum of development on site, a density higher than that found in the village, even 30dph, could be contextually acceptable. This is on the proviso that a scheme can ultimately be devised that responds adequately to, but not necessarily copies in all respects, the spacious and verdant character of Earnley. In this regard, the appellant explained at the hearing that there would be ample scope to have a more compact built form than that shown on the illustrative plan. This would allow more space around buildings and therefore more opportunities for soft landscaping in a way that responds to the rural structure and character of Earnley.
29. When looking at the illustrative layout it seems to me that there is scope for major revisions. For example, fewer garages could be used, Plots 5 and 9 could be split and Plots 25-28 and 15-16 redesigned as semidetached properties. Flats and terraces could be used elsewhere. Plots 15-20 could then be repositioned elsewhere to create a landscaped buffer with Drove Lane. Some of these amendments may not be appropriate but a creative and imaginative designer could come up with all manner of solutions to create space and verdancy. In fact, an earlier iteration of the proposal incorporated around 41 homes, which demonstrates that parts of the site could be more intensively developed to free up space elsewhere. There is nothing of substance before me

⁷ When applying the standard for a two-bedroom three person two storey dwelling of 70 square metres.

to suggest viability would be a notable constraint on this approach, especially as the scheme does not need to provide affordable housing⁸.

30. In conclusion, I share the view of the Council that the illustrative masterplan details a scheme that would have a greater adverse impact on the character and appearance of the area than what is currently on site. However, that is not what is proposed and is a failing of form rather than the quantum. When considered in the context of the existing baseline of large and generally unattractive buildings, a proposal of up to 30 homes need not inherently fail to balance an efficient use of land with the impact on the character and appearance of the area. A more compact form of development than that presented in the illustrative layout would allow space and landscaping around the built form and thus achieve this balance.
31. Accordingly, the proposal could have a net neutral impact on the character and appearance of the area or perhaps even an enhancement. As a result, and subject to the reserved matters, the provision of 30 homes need not be at odds with Policies 33 and 48 of the LP, Paragraph 130 of the Framework or guidance in The National Design Guide that responding to context and identity are important components of a well-designed place.

Whether the character or appearance of the CA would be preserved or enhanced

32. The CA is focussed on the historic core of Earnley. The Conservation Area Appraisal (CAA) lists the key surviving features, and this includes the surviving medieval street pattern, the small central green, the manor and church and several other historic buildings. The CA is remarkably intact and legible due to there being little modern development. As a result, the CA provides evidence of the structure, form and development of a small historic settlement. The rich mix of locally distinctive and period buildings intermingled with soft landscaping in an informal layout, with the Church at the centre, also provides an attractive composition. The CA therefore has historic, evidential and aesthetic value and significance.
33. The CA also has a distinctive character as it is small, verdant and located at the end of a quiet road. It therefore has a remote and tranquil feel. This allows one to experience the CA with a semblance of how it was in the past, allowing the historic and evidential value to be better understood and appreciated.
34. The appeal scheme would have some direct physical impacts on the CA. The provision of a pavement from the edge of the CA to the west of the access to Brook House⁹ would have an urbanising impact as the wide grass verges contribute positively to its informal and rural character. The pavement would need to be engineered due to the presence of a shallow ditch, although railings would probably be unnecessary and have not been referred to in the Road Safety Audit. That said, the pavement would be located away from the more sensitive grass verges to the south of Church Cottages. Moreover, the pavement would be seen in the context of more modern houses and the associated driveway and boundary treatment. As a result, the pavement would have a limited adverse impact on the rural character, appearance and significance of the CA.

⁸ Due to the vacant building credit

⁹ As per drawing 101750-006 Rev A

35. In addition, the proposal would result in an increase in traffic movements. The Parish Council has summarised this impact in a table with reference to various movements including those from Medmerry Park and Medmerry Nature Reserve. The analysis was informed by various sources including the appellant's trip assessment in their Transport Assessment, which was reviewed by the Local Highway authority and considered to acceptable.
36. The Parish Council's analysis concludes that on average throughout the year traffic levels would increase by between 22-56% in the AM peak hour and 26-70% in the PM peak hour¹⁰. These are large percentage increases, but this would still only result in a total combined average impact of around one vehicle through the CA every minute in the AM or PM peak from all sources. The appeal scheme would be responsible for around 18-22 movements out of 50-54, which is around one every three minutes in the peak hours with this then dissipating during the day. As a result, there would be a limited adverse impact on the tranquillity and rural character of the CA.
37. However, the appeal scheme would also result in some benefits to the CA. The proposal would see the white painted metal railings and brick piers at the entrance of Earnley Place removed. These are identified in the CAA as being inappropriate. This would however be a modest alteration. Furthermore, the benefit is diluted by the presence of a discordant close boarded fence at the entrance to Earnley Place, which was inexplicably approved by the Council. A more significant benefit could be the renovation of the façade of the Gatehouse. It is identified as a positive building in the CAA due principally to its external elevations which use local materials. The building is currently obscured behind Elm Lodge, which is a neutral building that would be demolished. This would improve the vista from the Church Yard.
38. Overall, the appeal scheme would have a net negative effect of limited magnitude on the significance of the CA. As a result, the character or appearance of the CA would not be preserved contrary to the expectations of the Act¹¹. The proposal would therefore be contrary to Policy 47 of the LP, which seeks to prevent an adverse impact on heritage.

The effect on the setting of the CA

39. The wider rural setting of the CA contributes positively to the way it is experienced as a small bucolic settlement of historic origins. The appeal scheme would have no effect on the setting of the village when approached along Bookers Lane. The main effect from the Clappers Lane approach would be the new pavement. This would urbanise the approach, but this effect would be experienced in the context of existing development along the northern side of the road. As a result, the rural setting of the CA in the approach from the west would not be harmed.
40. The main effect on the setting of the CA would be on approaching or exiting the CA along Drove Lane. A comparatively large body of housing in a more compact layout than is found in the centre of the village would have an awkward juxtaposition with the layout and structure of the CA, which is informal, spacious and verdant. This would harm the experience of the CA as a small historic and rural village.

¹⁰ The figure varies depending on whether the previous use of Earnley Concourse is factored in

¹¹ See Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

41. However, this effect needs to be considered with reference to the existing baseline of the buildings already present. They already harm the setting of the CA due to the sprawling layout and poor architectural quality. However, the new homes could have an appearance more in harmony with the architecture of the village and could be set within a generously landscaped and more spacious site. A redevelopment would also address the run-down appearance of the site. In addition, the replacement of Gate Cottage with a pair of attractive and well-designed semidetached properties, as indicated on the illustrative drawings, could also improve the setting of the CA.
42. Overall, the appeal scheme would not inherently increase the level of harm to the setting of the CA and therefore a conflict with Policy 47 of the LP in respect of this matter need not occur.

The effect on European sites - Appropriate Assessment

43. The appeal site is located near to the Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site and the Pagham Harbour SPA and Ramsar site. The Pagham Harbour SPA and Ramsar comprises an extensive area of salt-marsh and tidal mudflats with surrounding habitats including shingle, open water, reed swamp and wet permanent grassland. Chichester and Langstone Harbours SPA and Ramsar site comprises sheltered estuarine basins with extensive mud and sand flats, which are exposed at low tide. These sites are designated on account of their importance to a range of over-wintering and breeding wildfowl, waterfowl and waders, which are their qualifying features. The conservation objectives of these sites can be summarised as ensuring their integrity is maintained or restored by maintaining or restoring the habitats and populations of the qualifying features and their supporting processes
44. The appeal site is also close to the Medmerry Reserve, which is compensatory habitat in the event of habitat loss caused by sea level change and coastal squeeze. The area is being managed to functionally link, compensate and support the habitat and assemblage of wintering and breeding birds for which the Solent sites¹² are currently designated. Thus, when applying Paragraph 181 of the Framework, the Medmerry Reserve has the same level of protection as SPAs, SACs and Ramsar sites.
45. The appeal site is located within a zone of influence placed around the Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site and the Pagham Harbour SPA and Ramsar site. There is no dispute between the parties that population growth resulting from new housing within this zone would likely result in an increase in harmful recreational disturbance of birds at the relevant European sites. Accordingly, the proposal in combination with other plans and projects would be likely to have a significant adverse effect on the relevant European sites when following a precautionary approach. Hence, an appropriate assessment, in accordance with the Habitat Regulations¹³, is required to consider the implications of the proposal on the European sites in view of their conservation objectives.

¹² The Solent Maritime SAC, Solent and Southampton Water SPA, Portsmouth Harbour SPA and Chichester and Langstone Harbours SPA

¹³ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

46. The appellant has confirmed a willingness to provide the higher of the financial contributions set out in the Solent Recreation Mitigation Strategy¹⁴ and the Pagham Harbour SPA Recreational Mitigation Strategy, this being the latter. This approach is supported by Natural England as the Statutory Nature Conservation Body. The contribution would be pooled with others and used for strategic monitoring and management at the relevant sites. There is no requirement for Suitable Alternative Natural Greenspace in this instance given the small scale of the proposal.
47. The financial contributions would be secured through the submitted planning obligation. These mitigation measures would be directly related to the impacts of the proposal on the European sites. They are also necessary to make the development acceptable and are fairly and reasonably related in scale and kind to it. Thus, in respect of recreational disturbance, the proposal would not adversely affect the integrity of the relevant sites, the conditions of which need not deteriorate as a result of the proposal.
48. It is possible that qualifying species, especially Brent Geese, could use areas of the farmland habitat at the Medmerry Reserve in close proximity to the appeal site for loafing, particularly at high tide. However, there is no substantive evidence to demonstrate their presence. Moreover, this arable habitat type would typically be considered sub-optimal for Brent Geese unless sown with winter wheat, which is not always the case as the crop is rotated.
49. Winter Bird Surveys would usually be required to ascertain the presence or otherwise of overwintering birds such as Brent Geese. However, the appellant has not undertaken any. That said, the results of recent surveys¹⁵ undertaken by others and submitted at the hearing would suggest Brent Geese are not present. Therefore, I share the view of the appellant that the position of limited likely use detailed in the 'shadow' habitat regulations assessment¹⁶ remains accurate. In this context, mitigation would be required on a precautionary basis to address recreational disturbance and disturbance from construction and subsequent occupation.
50. The appellant, Council, Natural England and the RSPB agree that a 50% precautionary surcharge should be added to the mitigation package to manage and thus mitigate the presence of new residents at the reserve. The planning obligation does not specifically set out what the surcharge would be spent on, but it makes provision for the contribution to be transferred to the RSPB. The appellant has confirmed that the surcharge would be directly available for access management at the Medmerry Reserve in a way that echoes access management at other European sites. In addition, the new residents of the proposal would be informed of the sensitivities of the local area through a detailed welcome pack. This would emphasise the importance of adhering to the 'coastal code' promoted by Bird Aware Solent.
51. This mitigation needs to be considered in the context that the Medmerry Reserve is already promoted and managed for public access and recreation (including dog walkers) by the RSPB and has also been designed to cater for an

¹⁴ Also known as Bird Aware Solent

¹⁵ Winter Bird Survey by Lizard Landscape Design and Ecology – The surveys now cover a period of three years and indicate that Brent Geese are not present in the fields near to the appeal site. The Council has not disputed the survey results.

¹⁶ Information specific to a Habitats Regulations Assessment pursuant to Regulation 63 of The Conservation of Habitats and Species Regulations 2017 prepared by Ecology Solutions

increase in recreational use over the coming years. The reserve incorporates extensive paths and cycleways, which are sensitively positioned to ensure areas remain undisturbed as a sanctuary for qualifying species. The mitigation would therefore complement existing management practices.

52. Due to the separation of the proposed development to the habitats within Medmerry Reserve of heightened value to qualifying features, potential effects from noise and lighting during construction of the appeal scheme and the subsequent occupation of the homes are unlikely to be significant but cannot be ruled out. Natural England have also confirmed that there is a potential impact pathway in this respect despite there being no exclusion zone around the reserve. This is because exclusions zones are not always used and therefore impacts should be considered on a case-by-case basis.
53. Accordingly, the appellant is proposing precautionary measures in the form of a construction management plan, which would control lighting and hours of operation in the winter months amongst other measures. Winter controls between the core months of November and February are especially important to protect any over wintering birds and therefore restricting construction works during these months through the construction management plan, as recommended by Natural England, is necessary.
54. In respect of disturbance from occupation, external lighting would be controlled by condition. No further controls are considered necessary because there would be minimal general external residential activity in the winter months that is likely to cause disturbance. This is because general garden use would be low in the core winter months, meaning lawn mowers and power tools would be used infrequently if at all. Furthermore, vehicles already use Drove Lane and could use the appeal site in association with its dormant use. The appeal site is also screened by soft landscaping, which could provide some attenuation.
55. Another possible impact from occupation could be predation from pets, but the evidence I heard from the Ecologists present at the hearing confirmed that Brent Geese would not be at risk from cats due to their size and dogs would be unlikely to escape from the gardens within the proposal.
56. Natural England's position on post construction disturbance has been inconsistent. Its first response did not mention this matter but it subsequently indicated, in responding to my question after the hearing, that the appellant should consider this point further. However, for the reasons already set out I am satisfied the proposal would not have any adverse post construction effects. I am therefore content that the proposal would not harm the integrity of the Medmerry Reserve.
57. Because the proposal would discharge to the Sidlesham Wastewater Treatment Works (WwTW), and this WwTW has been removed from the Solent Maritime SAC catchment area, potential effects on nutrient loading to Chichester and Langstone Harbours SPA and Ramsar site and the Solent Maritime SAC are avoided and can be screened out. The proposed drainage strategy is to use a series of swales and attenuation basins prior to any discharge into Earnley Rife. The drainage strategy has been designed to introduce several stages of treatment before discharging water into the watercourse. As such, there would be no adverse effects on water quality at the relevant European sites.

58. In conclusion, the appeal scheme would not adversely affect the integrity of the Chichester and Langstone Harbours SPA and Ramsar site, Pagham Harbour SPA and Ramsar site, or any other European designated site when considered both alone and in combination with other plans and projects. Moreover, there will be no adverse effects on Medmerry Reserve either. The proposal would therefore adhere to Policies 49, 50, 51 and 52 of the LP, which seek to conserve biodiversity.

Other Considerations

Interim Position Statement for Housing

59. The Council has referred to an Interim Position Statement (IPS), the purposes of which are to provide interim guidance until the Local Plan Review is adopted and to boost the supply of housing in the absence of a five-year supply. However, it does not form part of the development plan and therefore does not set policy and cannot be treated as if it has that status. Moreover, it is not an adopted supplementary planning document either.

60. An Inspector in a recent appeal decision (APP/L3815/W/21/3286315) gave the IPS considerable weight because it had been through public consultation and was formally approved by the Council. However, the evidence before me includes a legal opinion (Appendix 2 of the appellant's rebuttal statement) which was unchallenged by the Council. The legal opinion sets out a compelling justification for giving the IPS no material weight if it seeks to establish new policy. This is because such an approach may be unlawful and vulnerable to quashing as relevant regulations and procedures relating to new policy formulation were not followed. If the IPS simply seeks to repeat development plan and national policies then it is unnecessary and adds nothing to the policy content. Thus, it is, at best, a material consideration of very limited weight meaning any conflict also carries very limited weight.

61. Only the first criteria (in Paragraph 6.2) of the IPS seems to suggest something markedly different to that generally set out in the development plan. It indicates that the site boundary of a development site should be contiguous with an identified settlement boundary defined in the LP. This would not be the case in respect of the appeal scheme because Earnley does not have a settlement boundary. However, this approach is curious as it seems to encourage development that would be contrary to the lawfully adopted development plan. I have already found that the proposal would be at odds with Policy 2 and set out the weight I attach this conflict. The application of Criteria 1 therefore adds nothing to my assessment other than to suggest that the Council's spatial strategy may be out of date, as a more permissive approach appears necessary to maintain a five-year housing land supply. This is reinforced by the fact that the Council still seeks to 'apply' the IPS despite purporting to have a five-year supply.

Whether the proposal would preserve the setting of listed buildings

62. Earnley Parish Church is Grade II* listed and draws historic and architectural significance from being a fine example of medieval architecture. Its setting in the centre of a small rural village adds to its significance as an important building in the rural community. The proposal would result in a small increase in vehicle traffic passing the Church, but it is already experienced as a roadside

building and thus in the context of passing traffic. Vibrations from construction traffic can be minimised through a construction management plan.

63. Even if the uplift in traffic resulted in a harmful impact, this would be very limited and cancelled out by the improvements to its rural setting that would be achieved by removing Elm Lodge and Gate Cottage and renovating the Gatehouse. Overall, the proposal would, at worst, have a net neutral effect on the setting of the Church. Accordingly, its setting would be preserved.
64. Similarly, the setting of Earnley Place would be preserved because the proposal could be designed to retain adequate space around this building. This would enable its architectural value and historic development to be appreciated. The proposed pavement would be sufficiently far enough away from the K6 phone box to ensure its setting is preserved as well.

Other Matters

65. The evidence before me suggests that there is currently issues with sewerage capacity and this has led to impacts on living conditions when sewerage backs up. To this end, Southern Water took the unusual step of objecting to a recent planning application at another site in Clappers Lane. However, Southern Water did not object to the appeal scheme and nor has the Council on this matter. This, I understand, is because sewerage from the site would move in a different direction to other sites in Clappers Lane. Notwithstanding this, the appellant confirmed at the hearing that an interim on-site solution could be progressed if it transpired that Southern Water needed to upgrade sewerage infrastructure. Based on the information before me I am content the appeal scheme would not have an adverse impact on sewerage capacity.
66. Substantive evidence is not before me to demonstrate that the appeal scheme would harm highway safety. The proposed pavement would terminate before the appeal site, leaving residents to walk in the road. But the Local Highway Authority have confirmed that the anticipated vehicular trip numbers would be low enough in the area between the site and pavement for this area to function as a shared surface. Due to the vacant building credit, there is no requirement for affordable housing. The site has been removed from the register of Assets of Community Value and no bid for the site was forthcoming when it was on the market. No party at the hearing objected to the proposal on grounds relating to the loss of a community asset and I have no reason to disagree.

Heritage Balance

67. The net limited harm that would occur to the CA would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. In so doing, the Framework explains that great weight should be given to an asset's conservation. This echoes the considerable importance and weight I must give to the desirability of preserving or enhancing the character or appearance of the CA¹⁷. This does not amount to a direction to refuse a proposal that harms a CA, but it provides a strong weighting in favour of preservation.
68. The appeal scheme would deliver up to 30 market homes. This is a benefit in the context of the Government's aim to significantly boost the supply of

¹⁷ See Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

housing. The extent of this benefit would be affected by whether the Council are currently able to demonstrate a five-year housing land supply. I have been presented with assessments by the Council and appellant, and appeal decisions¹⁸, that have come to differing conclusions. When using the Council's own figures, the housing land supply position is just over five years and this situation appears to rely on windfall housing, some of which has been approved contrary to the development plan. In this context, the appeal scheme would help shore up the Council's position. Therefore, the delivery of housing would be a benefit of moderate weight.

69. The proposal would also benefit housing choice and building the scheme would provide a short-term boost to the construction industry. The subsequent occupation of the homes would likely provide a boost to the provision and retention of local services and facilities through additional 'spend' and use. The new residents could also provide vitality to the community by getting involved in local organisations and clubs. That said, there is no substantive evidence before me to suggest local facilities, services or clubs are failing.
70. In addition, the proposal has the potential to enhance the setting of the CA when set against the existing baseline. This is subject to an acceptable design at the reserved matters stage so it is not a benefit that can necessarily be fully factored in at this stage, as the final design is unknown. Nevertheless, it's clear that unsightly buildings would be removed, and the indications are that a sensitive design could be achieved. As such, this matter is of some moderate weight in favour of the proposal in the context of Paragraphs 197 and 206 of the Framework. The proposal would also result in a net gain to biodiversity through the implementation of the enhancement measures set out in the appellant's Preliminary Ecological Appraisal. The provision of a footpath along Clappers Lane and the public open space within the development would benefit existing residents as well as future occupants of the appeal scheme.
71. Moreover, Paragraph 120 of the Framework states that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The proposed development would reuse brownfield land within a settlement. However, it would be a disproportionately large development at odds with the spatial strategy in the development plan. Thus, it would be reasonable to conclude that it is not an entirely 'suitable' reuse of land and therefore it would not be appropriate to apply substantial weight. Nevertheless, there is still strong support in national policy for reusing previously developed land and this weighs in favour of the proposal in the circumstances. Cumulatively, the benefits would carry significant weight.
72. When weighing these matters, the significant benefits of the proposal would outweigh the limited residual harm to the CA. This would be the case even though considerable importance and weight must be given to the desirability of preserving the character or appearance of the CA. Accordingly, there would be no conflict with Paragraph 200 of the Framework, as harm to designated heritage assets would have clear and convincing justification.

Planning Obligation and Conditions

73. In addition to the obligations relating to mitigating the impacts on European sites, several additional matters are addressed through the legal agreement.

¹⁸ APP/L3815/W/21/3286315 and APP/L3815/W/21/3284653

74. *Open Space* – To support health and wellbeing, Policy 54 of the LP states that new residential development will be required to contribute towards the creation of new open space and sets out a standard which is cross referenced in the Planning Obligations Supplementary Planning Document. To this end, the appellant is proposing to provide the requisite amount of open space. The provision, maintenance, and management of this area, along with public access to it, would be secured through the planning obligation.
75. *A27 Highway improvements* – The Council has an adopted Supplementary Planning Document¹⁹ aimed at mitigating the effects of traffic on the A27. It requires a contribution of £3,248 per dwelling. There is no substantive evidence before me to indicate a contribution would be unnecessary in this instance. Accordingly, the appellant has addressed this matter through the planning obligation by including the 'A27 Works Contribution', which would be secured prior to the operative date (commencement).
76. *Monitoring fee* – The planning obligation is reasonably complicated with several trigger points and actions the Council needs to undertake and/or monitor. It is therefore reasonable that a monitoring fee of £1,692 is included to ensure the smooth operation of the planning obligation.
77. In light of the analysis above, the obligations are necessary to make the development acceptable and are directly, fairly and reasonably related in scale and kind to it. As a result, I can take them into account as mitigating the impacts of the proposal.
78. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the parties. In addition to standard commencement conditions, it is necessary to define the reserved matters and require their approval. I have included 'access' as a reserved matter in order to deal with internal circulation routes. A drawings condition relating to the position and design of the external accesses is nevertheless added in the interests of certainty and highway safety.
79. To protect living conditions, it is necessary to address potential land contamination²⁰ and secure details of construction management (including hours) and foul drainage. Construction management is also required to deal with potential effects on the Medmerry Reserve, as is control over external lighting and the provision of a 'Bird Aware' pack.
80. To reduce flood risk, it is necessary to secure details of surface water drainage and the maintenance and management of any system. To promote sustainable transport, it is necessary to secure details of a Travel Plan, electric vehicle charging points and the provision of a footpath along Clappers Lane. To protect biodiversity and the character and appearance of the area, it is necessary to protect trees, secure an updated ecological survey and a Landscape and Ecological Management Plan. To manage water resources, it is necessary to secure limits on water consumption. In the interests of fire safety, it is necessary to secure the provision of hydrants. To enhance heritage it is necessary to secure particular aspects of the proposal.

¹⁹ Approach for securing development contributions to mitigate additional traffic impacts on the A27 Chichester Bypass

²⁰ I have moved the trigger to encompass demolition as demolition works could involve contaminated material

Conclusion

81. The proposal would be at odds with the spatial strategy in the development plan. I have afforded this moderate weight for the reasons already given. The proposal would also result in some limited residual harm to the CA. The proposal would be at odds with the development plan taken as a whole.
82. That said, the benefits of the proposal would outweigh the harm to the CA. In fact, on an ordinary untitled balance the benefits would be of sufficient force to outweigh the totality of harm identified. This is a material consideration that suggests the proposal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal has been allowed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Jenney Wigley QC
Brian Mullon
Matthew Roe
Jeremey Peachey
James Walch
Gail Stoten
Neil Tiley
Victoria Balboa
Paul Hunt
Josef Saunders

Landmark Chambers
Marrons Planning
Marrons Planning
Pegasus Group
Pegasus Group
Pegasus Group
Pegasus Group
Pell Frischmann
Howes Percival
Ecology Solutions

FOR THE LOCAL PLANNING AUTHORITY

Andrew Robbins
Jo Bell
Jeremy Bushell
Owen Broadway
Stephen Harris

Chichester District Council
Chichester District Council
Chichester District Council
Chichester District Council
Chichester District Council

INTERESTED PARTIES

Keith Martin
Robert Carey
Racheal Dadds
Mr Dadds
Claire Smith
Melissa Smith
Graham Barrett
Linda Evans
Julia Bowering
Simon Bosley
Sue Hawker

Earnley Parish Council
Earnley Parish Council

DOCUMENTS SUBMITTED DURING AND AFTER THE HEARING

1. Planning obligation dated 06/04/22 and revised conditions list dated 07/04/22
2. Maps from the Parish Council and appellant showing the distance from various points at the appeal site to the nearest bus stop
3. Winter Bird Surveys by Lizard Landscape Design and Ecology
4. Copies of email correspondence between the appellant and Natural England and the Council and Natural England dated 28 and 29 March 2022
5. Email correspondence between the appellant and the RSPB dated 25/03/22
6. Trip rate analysis by Earnley Parish Council
7. Benefits table and the weight the appellant affords these matters
8. Council written response to the appellant's application for costs
9. Appeal decisions APP/L3815/W/21/3286315 and APP/L3815/W/21/3284653 and comments pertaining to them
10. Natural England's comments dated 29/04/22
11. Appellant's final comments in respect of the above

Schedule of Conditions

- 1) Details of the access (internal circulation routes), appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be submitted to the local planning Authority before the expiration of 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the plans listed below;
 - Site Location Plan (ref. P18_1186_001). submitted 13.08.2019
 - Proposed North Site Access (ref. 101750_T.004) submitted 13.11.2019
 - Proposed Southern Site Access (ref. 101750_T.005) submitted 13.11.2019
- 5) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) comprising a schedule of works and accompanying plans for that development has been submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB or whoever is for the time being responsible for the Medmerry Reserve. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following and shall have particular regard to any potential impacts on the Medmerry Reserve:
 - (a) the phased programme of demolition and construction works.
 - (b) the anticipated number, frequency and types of vehicles used during construction,
 - (c) the location and specification for vehicular access during construction,
 - (d) the provision made for the parking of vehicles by contractors, site operatives and visitors,
 - (e) the loading and unloading of plant, materials and waste,
 - (f) the storage of plant and materials used in construction of the development,
 - (g) the erection and maintenance of security hoarding,
 - (h) the location of any site huts/cabins/offices measures to control the emission of noise during construction,
 - (i) the provision of road sweepers, wheel washing facilities and the type, details of operation and location of other works required to mitigate the impact of construction upon the public highway and the church (including the provision of temporary Traffic Regulation Orders),
 - (j) details of public engagement both prior to and during construction works, including a named person to be appointed by the applicant to deal with complaints who shall be available on site and contact details made known to all relevant parties.

(k) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and damping down stockpiles and restriction of vehicle speeds on the road. A dust management plan should form part of the CEMP which includes routine dust monitoring at the site boundary with actions to be taken when conducting dust generating activities if weather conditions are adverse

(l) measures to control the emission of noise during construction,

(m) details of all proposed external lighting to be used during construction and used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,

(n) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas,

(o) measures to reduce air pollution during construction including turning off vehicle engines when not in use and plant servicing,

(p) waste management including prohibiting burning and the disposal of litter.

(q) provision of temporary domestic waste and recycling bin collection point(s) during construction.

(r) the hours of construction and seasonal restrictions during the months when over wintering birds may be present at the Medmerry Reserve.

(s) Measures to protect all listed buildings and curtilage listed structures at the site and in the village, including a tracked path analysis to show that construction vehicles can safely enter and leave the site in forward gear during the construction process.

- 6) Before construction of any dwelling above slab level a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the LPA. 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 fifteen-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 and landscape objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

- 7) No development shall commence until details of the proposed demolition of the entrance pillars and railings, and the remediation of the entrance have

been submitted to and approved in writing by the Local Planning Authority, and those works have been carried out in accordance with those approved details. Concurrently with the submission of the Reserved Matters, a scheme and timetable for the renovation of the façade of the Gatehouse shall be submitted to and approved in writing by the Local Planning Authority. The Gatehouse shall be renovated in accordance with the approved details.

- 8) No development shall commence unless and until details of the proposed means of foul water sewerage disposal including any proposals for associated off-site infrastructure improvements (if required) and an agreed timetable for the works have been submitted to and been approved in writing by the Local Planning Authority. Thereafter all development shall be undertaken in accordance with the approved details and in accordance with the approved timetable for implementation. Should off-site works be required, then there shall be no occupation of any dwelling until those approved off-site works have been completed. In the event that the agreed off-site works are not completed in full by the time of the first occupation, detailed interim on-site measures for the disposal of foul water sewerage shall be agreed in writing by the Local Planning Authority and shall be installed prior to the first occupation of the site. The interim works shall be removed when the permanent connection is made.
- 9) No development shall commence until details of the proposed overall site-wide surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the approved surface water drainage scheme.
- 10) No development shall commence until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA). Unless the Local Planning Authority dispenses with any such requirement specifically in writing the scheme shall include the following, a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.
- 11) If the Phase 1 report submitted pursuant to condition 11, identifies potential contaminant linkages that require further investigation then no development, other than demolition, shall commence until a Phase 2 intrusive investigation report has been submitted to and approved in writing by the LPA detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The

findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

- 12) If the Phase 2 report submitted pursuant to condition 12 identifies that site remediation is required then no development, other than demolition, shall commence until a Remediation Scheme has been submitted to and approved in writing to the Local Planning Authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.
- 13) No development shall commence on the Sustainable Urban Drainage System (SUDS) until full details of the maintenance and management of the SUDS system, set out in a site-specific maintenance manual, has been submitted to and approved in writing by the Local Planning Authority. The manual shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SUDS system serving each phase, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 14) No development shall commence until an updated walk-over ecological survey and mitigation and enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 15) No development shall commence on site, including demolition, until protective fencing has been erected around all trees, shrubs and other natural features not scheduled for removal in accordance with the Tree Survey prepared by Cotswold wildlife Surveys dated 14.09.18. Thereafter the protective fencing shall be retained for the duration of the works and in accordance with the above report and the recommendations of BS5837:2012, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.
- 16) Before construction of any dwelling above ground slab level the developer shall provide details of how the development will accord with the West Sussex County Council: Guidance on Parking at New Developments (August 2019) in respect of the provision of Electric Vehicle (EV) charging facilities. These details will be submitted to the Local Planning Authority for approval in writing and carried out as approved. Specifically, the development shall provide passive provision through ducting to allow EV charging facilities to be brought into use at a later date for the whole site. Active EV charging facilities shall be provided in accordance with the table at Appendix B of the West Sussex County Council: Guidance on Parking at New Developments

(August 2019) and no dwelling which is to be provided with an active charging facility shall be first occupied until the EV charging facility for that dwelling has been provided and is ready for use.

- 17) Before first occupation of any dwelling details of any proposed external lighting of the site shall be submitted to and be approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details, unless the Local Planning Authority gives its written consent to any variation. The lighting scheme shall take into consideration the presence of bats in the local area and shall minimise potential impacts to any bats using trees and hedgerows by avoiding unnecessary artificial light spill through the use of directional lighting sources and shielding. The scheme must also have regard to and seek to minimise lighting impacts on the Medmerry Reserve
- 18) The dwellings hereby permitted shall be designed to ensure the consumption of wholesome water by persons occupying a new dwelling must not exceed 110 litres per person per day, as set out in in G2 paragraphs 36(2) and 36(3) of the Building Regulations 2010 - Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition with 2016 amendments; or any future amendments). No dwelling hereby permitted shall be first occupied until the requirements of this condition for that dwelling have been fully implemented, including fixtures, fittings and appliances.
- 19) Prior to the commencement of the development details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any dwelling/unit the required fire hydrants will be installed in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting. Thereafter the fire hydrants shall be maintained in a condition that is fit for purpose for the lifetime of the development.
- 20) Prior to first occupation of the development, a travel plan based on the particulars contained within the approved development, shall be submitted to and approved in writing by the Local Planning Authority alongside a specification and timetable for the delivery of the pavement along Clappers Lane. The development shall be implemented in accordance with the approved details.
- 21) Before the occupation of any dwelling, details of an information pack detailing the local environment, its ecological sensitivities and the importance of adhering to the 'coastal code' promoted by Bird Aware Solent shall be submitted to and approved in writing by the Local Planning Authority. The approved information pack shall be provided to the occupier of each dwelling on first occupation.

End of schedule