



## Appeal Decision

Hearing held on 15 November 2022

Site visit made on 16 November 2022

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 14 December 2022**

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### **Appeal Ref: APP/C3810/W/22/3302023**

#### **Land west of Pagham Road, Pagham**

- 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 Hallam Land Management against the decision of Arun District Council.
  - The application Ref P/178/21/OUT, dated 17 December 2021, was refused by notice dated 19 May 2022.
  - The development proposed is the construction of up to 106 new homes, formation of access onto Pagham Road, new pedestrian and cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure.
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#### **Decision**

1. The appeal is allowed and planning permission is granted for the construction of up to 106 new homes, formation of access onto Pagham Road, new pedestrian and cycle links, the laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure at Land west of Pagham Road, Pagham in accordance with the terms of the application, Ref P/178/21/OUT, dated 17 December 2021, subject to the 32 conditions set out in the attached schedule.

#### **Preliminary Matters**

2. The original application was made in outline with all matters reserved except for access. Approval is only sought at this stage for the access point onto Pagham Road as shown on plan ref JNY10700-01 Rev D. All other matters relating to access, including internal circulation, would be determined at the reserved matters stage. I have had regard to the illustrative masterplans (ref P21-2766\_03 Rev E, P21-2766\_03 Rev F and P21-2766\_02 Rev G) and landscape masterplan (ref P21-2766\_06 Rev B) but consider that all the details shown are indicative only, apart from the access point.
3. A completed and executed Section 106 agreement (S106) was submitted shortly after the close of the hearing. This is assessed below.

#### **Main Issues**

4. The original application was refused for five reasons. In the Statement of Common Ground between the main parties, the Council confirmed that it would not seek to defend the second reason for refusal on flood risk subject to a suitably worded condition, or the third, fourth or fifth reasons for refusal on affordable housing, transport and ecology subject to those matters being appropriately addressed as obligations in the S106.

5. Interested parties identified a number of concerns relating to flood risk and so it has been necessary for this topic to remain a main issue at the hearing and in my decision. For clarity, I have also separated out the three topics contained with the first reason for refusal. Therefore, the main issues are as follows:
- a) The effect of the proposed development on the character and appearance of the area including the surrounding countryside;
  - b) The effect of the proposed development on the provision of agricultural land;
  - c) The effect of the proposed development on flood risk; and
  - d) The overall planning balance, having regard to the development plan, national policy and the benefits of the proposal.

## **Reasons**

### ***Main Issue 1: Character and appearance***

6. The appeal site comprises an agricultural field immediately to the west of Pagham Road and bordering the northern edge of Pagham. There is existing development to the south, including a small cul-de-sac surrounding a tall Grade II listed building known as Nyetimber Windmill and a much larger residential park home estate known as Mill Farm which extends beyond the south-west corner of the site. There is an area of thick vegetation along the site's western boundary and a hedgerow along its northern boundary that separates the site from open fields and the wider countryside to the north and west. There is a small cluster of buildings around the Grade II listed Rookery Farmhouse next to Pagham Road that extends halfway along the site's northern boundary. The eastern boundary of the site next to Pagham Road is partly contained by hedgerows while on the opposite side of the road is a large field at Hook Lane.
7. With the exception of Mill Farm and small cul-de-sacs to the west of Pagham Road, much of the housing within Pagham is contained to the east of Pagham Road and south-east of Hook Lane. The Pagham Village Design Statement (VDS) refers to the open fields west of Pagham Road and those abutting Hook Lane as especially sensitive and valued rural areas beyond the settlement edge. However, the VDS dates from 2007 and there have been considerable changes that have or will affect the character and appearance of the area.
8. New housing is being built to the west of Pagham Road and to the south of Mill Farm along the northern edge of Summer Lane. There is a strategic allocation in the Arun Local Plan 2018 (ALP) for 400 homes to the south of Summer Lane known as Pagham South which is seeking reserved matters approval. There is another ALP strategic allocation for 800 homes to the north-west of Hook Lane known as Pagham North which is opposite the site. This has secured reserved matters approval and is being implemented.
9. In terms of landscape character, the site lies within coastal plain character areas at the national, county and district level. This landscape is mainly flat and open with arable fields crossed by hedgerows and watercourses (rifes). Large commercial buildings and the proximity of urban fringes are detracting features. The site is part of this landscape character with its flat, open and vegetated qualities but it also has the detracting elements of nearby built development.

10. Public views of the site are limited to the Pagham Road frontage and only in the gaps in hedgerow planting. This allows a clear view of the site as well as buildings to the north and south, including the single storey properties at Mill Farm where there are breaks in boundary planting. These buildings along with trees and hedgerows restrict views of the wider countryside to the north and west. It may be possible to spot the spire of Chichester Cathedral on a fine day, but it is around 5km to the north-west and unlikely to be a significant feature at that distance. The buildings at Mill Farm prevent views of the site from a public footpath through the estate and from footpaths further to west and south-west. Vegetation and intervening buildings prevent views of the site from footpaths to the north and south.
11. The main parties agree that the site is not within any landscape designation and is not part of a valued landscape for the purposes of paragraph 174(a) of the National Planning Policy Framework (NPPF). While it has some value as an open field with hedgerow boundaries, it is well-contained from the surrounding area by buildings and vegetation. From the Pagham Road frontage, it is hard to appreciate the wider countryside beyond. The site is situated in a semi-rural edge of settlement location, but existing residential development to the south already has an urbanising influence. The Pagham North site to the east would add to this influence on the other side of Pagham Road travelling into the settlement from the north, even with landscaping buffers to the road. Therefore, the site only makes a moderate contribution to the character and appearance of the area.
12. The illustrative masterplans show residential development across much of the site with the access point onto Pagham Road approximately halfway along the eastern boundary. While the access point is the only element fixed at this stage, the draft planning conditions agreed between the main parties would set clear parameters for any reserved matters application. Built development would need to avoid the biodiversity improvement area along the western edge of the site and maintain dark wildlife buffer areas along the edges generally. Unless properties are built with a finished floor level of at least 300mm above the modelled 2115 undefended flood event scenario (see below), built development would be even further away from the site's western edge. There would also need to be a development free zone in the south-eastern corner to maintain a sightline of the listed windmill from Pagham Road. The masterplans suggest buildings could set back from the by approximately 30 to 50m.
13. These parameters would ensure that there would be considerable landscaping buffers on all sides of the development. Existing trees and hedges would be strengthened to screen views from the road and elsewhere. The development free zone could incorporate public open space and play equipment and provide a strong green edge for anyone travelling past the site on Pagham Road.
14. The gap in the road frontage would remain for the access point and the view of the currently open site would be lost to built development. The semi-rural character would also diminish. However, the density of development would not be excessive and the exact number of dwellings can be controlled at the reserved matters stage to ensure that it would not be overly urban. The same controls apply in terms of the scale and appearance of each dwelling along with any landscaping measures.

15. It may be possible to see two-storey properties above the existing single storey homes at Mill Farm from public footpaths to the west and south-west, but the effect of this can be successfully mitigated through additional planting. In the context of existing housing to the south of the site and emerging residential development to the south and east, the development would not seem out of place. Any negative effects can be mitigated through the layout of housing and the use of landscaping to screen and soften built forms.
16. In conclusion, the proposed development would have an acceptable effect on the character and appearance of the area including the surrounding countryside. Therefore, it would accord with ALP Policy LAN DM1 which, amongst other things, requires development to respect the particular characteristics and natural features of relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas. It would also accord with ALP Policy D DM1 which, amongst other things, seeks to make the best possible use of available land by reflecting or improving upon the character of the site and surrounding area.

### ***Main Issue 2: Agricultural land***

17. The site is used for arable farming and could continue to do so regardless of the outcome of this appeal. Around two-fifths of the site has been surveyed as Grade 3a agricultural land nearest to Paghham Road while the remainder is Grade 3b land. The NPPF defines Grades 1, 2 and 3a as best and most versatile (BMV) agricultural land with NPPF paragraph 174(b) highlighting the economic and other benefits of such land.
18. Most of the countryside surrounding the main coastal towns in Arun is characterised as BMV land. The main parties agree that it is difficult to avoid new development on the edge of such settlements resulting in the loss of some BMV land. In addition to BMV land having good soil for crops, it provides employment benefits as well as bi-products for composting and energy. With rising costs and uncertain food security, such land is an important resource.
19. ALP Policy SO DM1 seeks to protect BMV land unless the need for development outweighs the need to protect such land in the long term. The policy requires the submission of a sustainability and options appraisal to justify the loss of BMV land which has not been provided for this development. It also requires mitigation measures and a soil resources plan to offset any loss.
20. Based on the illustrative masterplan (ref P21-2766\_03 Rev E) around two-thirds of the existing site would be lost to residential development and the remainder would be used for landscaping, flood attenuation and public open space. As a consequence, it would no longer be feasible for any commercial farming within the site. However, the main parties have agreed on a draft condition that would require the submission of a soil resources plan to protect and reuse soils within the development. Soils could be recycled for use within individual gardens and the undeveloped parts of the site could be used for small scale crop growing.
21. Compared to the extent of BMV land in Arun, the loss of around 2 hectares of Grade 3a land and 3 hectares of non-BMV Grade 3b land would not be significant. Soils can be protected and reused. Nevertheless, the loss of agricultural land carries moderate weight against the development. Moreover, the development has not provided the sustainability and options appraisal

required by ALP Policy SO DM1. In summary, the development would have a negative effect on the provision of agricultural land and cause some conflict with ALP Policy SO DM1.

**Main Issue 3: Flood risk**

22. Based on current day flood mapping from the Environment Agency (EA), most of the site lies within Flood Zone 1 apart from the north-west edge. This area lies within Flood Zones 2 and 3 due to the proximity of the Pagham Rife. No housing is proposed within this area on any of the illustrative masterplans and the route into and out of the site would also avoid this area.
23. However, the current day flood mapping does not reflect future climate change considerations. The Council's Strategic Flood Risk Assessment (SFRA) predicts that more of the north-western part of the site would fall within Flood Zone 3 by 2111. This is due to sea level rises and water from Pagham Harbour travelling up the Pagham Rife and flooding onto surrounding land. Pagham Rife already experiences flooding and interested parties have referred to the effect of a spring tide combined with heavy rainfall and the harbour sluice gates being closed leading to the displacement of water sideways from the river.
24. The EA's future flood map data is more recent than the SFRA. It forecasts that the area of the site within Flood Zone 3 by 2115 to be somewhere in between the extent shown in current day mapping and the SFRA assuming a defended flood event. Nevertheless, the appellant has modelled the scenario for a 2115 undefended 1 in 200 year tidal storm event with 1.1m and 1.6m sea level rises. This shows the extent of flooding to be comparable to the SFRA mapping and would affect any properties in the westernmost part of the site.
25. There is no intention for existing flood defences to be abandoned. The above scenario would require a series of defences to fail at the same time as a severe storm event. However, agreement has been reached between the main parties in consultation with the EA that a suitably worded planning condition can be attached to any permission. This condition would require either no properties within the area that would be flooded in the 2115 undefended flood event scenario or any property within that area to have a finished floor level at least 300mm above the modelled flood event. As a consequence, future occupants of the development should be safe from flooding.
26. The appellant has also carried out a sequential test as part of their appeal submission even though it is possible that no housing would be located outside Flood Zone 1. This reveals that alternative sites in the Pagham area are either not suitable/available or not sequentially better than this site in terms of flood risk. Therefore, I concur that there are no reasonably available alternative sites in Pagham for the development proposed in terms of flood risk matters.
27. Surface water would drain into an attenuation pond at the northern end of the site and then into watercourses and the Pagham Rife. The drainage strategy, which can be finalised and secured by condition, would lower existing run-off rates by holding and slowly releasing water. It would also be possible to remove pollutants before discharging off-site. Even if levels in the Pagham Rife are high, the development should not increase the risk of flooding elsewhere but should result in a betterment on existing water flow and quality.

28. It is apparent that the appellant has drainage rights to discharge into the watercourses to the north of the site based on riparian rights and documented easements<sup>1</sup>. Therefore, it seems unlikely that adjoining landowners would be able to withhold permission to drain into these watercourses. In any case, any dispute would be a civil matter separate to the planning process and so I have assumed that off-site drainage is achievable.
29. Interested parties have referred to information from Climate Central which forecasts half of the site to be below the annual flood level by 2030. However, I do not have the full information before me and so have relied on data provided by the EA and in the SFRA. The appellant's Flood Risk Assessment and appeal submission has taken into account baseline conditions and flooding data. It is evident that flooding already occurs from the Pagham Rife with flooding events at Mill Farm and elsewhere, and the bunding at Mill Farm suffering from water ingress. However, it has not been demonstrated that development on this site either on its own or cumulatively with other developments would either increase the risk of flooding elsewhere or put future occupants at risk.
30. Concluding on this main issue, the proposed development would have an acceptable effect on flood risk. Therefore, it would accord with ALP Policy ECC SP1 which, amongst other things, supports development which is located and appropriately designed to adapt to climate change in terms of flooding and drainage. It would also accord with ALP Policy W DM2 which requires development in areas at risk from flooding to meet the sequential test and show that the development will be safe without increasing flood risk elsewhere. The development would also follow the advice in NPPF paragraphs 159 to 169 with regard to the sequential test and addressing flood risk.

### ***Other matters***

#### *Sewage*

31. Southern Water has stated that there is insufficient capacity to join the development to the existing 150mm foul sewer along Pagham Road. However, they have identified where a connection could take place with foul sewage processed at Pagham Wastewater Treatment Works (WTW). A planning condition can be applied to ensure that a suitable foul drainage system is agreed and implemented. Such a system should be capable of keeping foul water separate from any surface water drainage, particularly as the former would flow eastwards to the road and the latter westwards to the Pagham Rife.

#### *Pagham Harbour Special Protection Area (SPA)*

32. The site is within 5km of the Pagham Harbour SPA and Ramsar site. The SPA contains a range of estuarine habitats including salt marsh, mudflats and grassland important for rare bird species like terns and ruffs as well as migratory bird species like brent geese. Potential adverse effects on the SPA from the development relate to recreational disturbance from increased numbers of visitors and their dogs affecting bird populations. This could result in likely significant effects on the integrity of the European site in combination with other plans or projects. As such, it is necessary to carry out an appropriate assessment (AA) as part of my decision.

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<sup>1</sup> Hearing Document 6

33. As part of the AA, it is necessary to consider whether any potential effects could be addressed through specific measures. The appellant and the Council have agreed a financial contribution of £871 per dwelling towards the established strategic access management and monitoring (SAMM) project at Pagham Harbour. This would be secured by the S106. The extent of open space within the site would exceed policy requirements based on the illustrative material. This can be secured at the reserved matters stage and so could further help to reduce recreational pressure on the SPA.
34. Natural England (NE) was consulted as part of the appeal process and has confirmed that Pagham Harbour SPA is the only European site potentially affected by the development due to recreational disturbance. NE has also confirmed that the SAMM contribution secured by the S106 would be sufficient to avoid an adverse impact on the integrity of the SPA. Contrary to its response at the application stage, NE has not raised concerns with any effect on European sites in the Solent where wastewater can have negative consequences. This is because the Pagham WTW discharges to the English Channel and not the Solent.
35. Based on the above mitigation measures, the development would not result in a significant effect on the SPA and so would accord with ALP Policy ENV DM2 which seeks to protect the integrity of Pagham Harbour. I am also satisfied that the development would not affect any other European site.

#### *Other ecology matters*

36. The appellant has conducted a number of ecological surveys for different species. Trees and hedgerows within the site provide suitable habitats for bats and breeding birds, and some species within these groups have been identified. It is possible to retain the trees with bat roosting potential and much of the other boundary vegetation. Lighting measures can be sympathetic not just for bats and birds, but other species groups too. Additional planting and the use of bat/bird boxes would provide ecological enhancements. Such measures can be secured by condition as part of a landscape and ecology management plan. Further survey work for water voles, badgers, and hedgehogs can be carried out before development commences and mitigation measures agreed if any are found to be present. There would also be a biodiversity net gain for habitats, hedgerows, and river units. Therefore, the development would have an acceptable and beneficial effect on ecology.

#### *Listed buildings*

37. The Grade II listed Nyetimber Windmill has architectural and historic interest as a 19<sup>th</sup> century mill. The Grade II listed Rookery Farmhouse has architectural and historic interest as an 18<sup>th</sup> century farmhouse. Historically, both buildings were associated with the surrounding fields and countryside, although this has diminished particularly in the case of the windmill which is now integrated with modern residential development. Nevertheless, the windmill remains a prominent feature from Pagham Road and can be seen across the site.
38. The farmhouse is less obvious from either the road or the site due to its height and intervening buildings, although its roof can be glimpsed. The farmhouse is orientated northwards but there are rooflights on the elevation facing towards the site and windmill. The windmill has no upper floor windows facing the site or farmhouse. Therefore, the intervisibility between the two buildings is limited.

Moreover, it is not evident that they share a historic relationship. Therefore, while the existing site makes a moderate positive contribution to the significance of the listed windmill, it makes no more than a minor positive contribution to the significance of the farmhouse.

39. The development may or may not block views from the farmhouse to the windmill depending on the scale and layout of housing. Even if it did, given the limited intervisibility and absence of any specific relationship, the level of harm to significance would be low. The illustrative masterplans and the proposed conditions would provide a development-free zone next to the windmill, which would enable views of the building to be retained from both the road and the site. This would limit any adverse effect of the development on the significance of the listed windmill. In summary, any harm to the significance of the listed buildings would be minor and less than substantial. In line with NPPF paragraph 202, such harm should be weighed against the public benefits which takes place in the planning balance below.

#### *Highway safety and parking*

40. The development has been subject to assessment by the local highway authority who have raised no objections. The visibility splays onto Pagham Road are based on speed survey data and can be achieved and maintained. A financial contribution via the S106 can be secured for improvements to the A27 junction at Whyke Hill. While Pagham Road and the wider local road network may be very busy at times, unsafe for cyclists, and suffer from poor surfacing, it has not been demonstrated that the development would make conditions materially worse.
41. Seasonal workers for the agricultural business to the north may use the site as a cut through from Pagham to avoid walking along narrow sections of Pagham Road, but this is not a formal arrangement with the landowners of the site. It is possible that the development could provide a better surfaced route for such workers than the existing field margins if a formal arrangement was agreed. It is evident that on-street parking occurs in the area surrounding the site. However, the development should be able to provide sufficient parking spaces to avoid exacerbating this issue while local services in Pagham are within walking distance. Therefore, the development would have an acceptable effect on highway safety and parking.

#### *Local infrastructure*

42. The strategic sites at Pagham North and South are required to provide infrastructure for future occupants of those developments and contribute towards improving existing facilities in the local area including a new primary school. It has not been demonstrated that the development relies on the infrastructure delivered via the two strategic sites in order to be acceptable. In any case, Pagham North has commenced development while reserved matters for Pagham South are being progressed. I have little information to show that the development would cause unacceptable effects on the provision of schools, healthcare or other facilities. Financial contributions via the Community Infrastructure Levy (CIL) could be used to make infrastructure improvements in the local area, with the parish council receiving 15% of the CIL receipts. Therefore, the development would have an acceptable effect on local infrastructure.

### *Living conditions and local tourism*

43. A number of properties at Mill Farm along the southern and south-western boundary of the site currently look directly across the site due to the absence of any planting. However, it should be possible at the reserved matters stage for new housing to be fixed at a sufficient distance from the boundary and screened by landscaping. This would ensure no unacceptable adverse effects on the living conditions of occupants at Mill Farm in terms of outlook, noise or privacy. I have insufficient evidence that odour from nearby land uses including a digestion plant would result in unacceptable living conditions for future occupants of the development. With regard to local tourism, the development would not be so large or urban as to discourage visitors to Pagham.

### **Main Issue 4: Planning balance**

#### *Housing supply/delivery and policy context*

44. The main parties agree that the Council cannot demonstrate a five year housing land supply and that it has not been able to do so since 2018. The Council's latest estimate of supply stands at 2.4 years. The housing delivery test result for Arun has also been below 70% since the ALP was adopted in 2018 with the 2021 result standing at 65%.
45. As a consequence of the housing supply and delivery positions, NPPF paragraph 11(d) is triggered as the policies most important for determining the proposal are out of date. NPPF paragraph 11(d)(i) is not relevant as there are no policies in the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development. Instead, NPPF paragraph 11(d)(ii) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
46. The main parties agree that the policies listed in the first reason for refusal are the most important policies for determining this proposal. ALP Policies D DM1, LAN DM1 and SO DM1 have been addressed above, but Policies C SP1 and SD SP3 relate to settlement structure and are assessed below.
47. The site adjoins the built-up area boundary for the district's main towns and villages as set out in the ALP. As a consequence, ALP Policy C SP1 defines the site as countryside which will be recognised for its intrinsic character and beauty. The policy states that development will be permitted in the countryside where it meets one of a number of criteria, none of which apply to the proposed development. Therefore, the main parties agree that the development would conflict with ALP Policy C SP1.
48. The site is also located in a gap between settlements as set out in the ALP. The settlements in question are Bognor Regis and Chichester. ALP Policy SD SP3 states that the generally open and undeveloped nature of these gaps between settlements will be protected to prevent coalescence and retain their separate identity. Development will only be permitted within the gaps if a number of criteria in (a) to (e) can be met. Criteria (a) to (c) all have to be met, while the development only has to meet one of the criteria in (d) or (e).
49. In terms of criterion (a), there is a considerable countryside gap between Bognor Regis and Chichester. It is not possible to see another settlement to the north or west of the site. Therefore, the development would not undermine the

- physical or visual separation of settlements. Turning to criterion (b), the development would encroach into the gap but in a relatively limited way compared to the overall size of the gap and the scale of developments coming forward at Pagham North and Pagham South. Moreover, its effect on the character and appearance of the area would be acceptable. Therefore, individually or cumulatively it would not compromise the integrity of the gap.
50. Due to the lack of housing land supply and housing delivery, it is difficult to argue that the development could be located elsewhere. Therefore, criterion (c) would be met. In terms of criteria (d) and (e), the development would either need to maintain the character of the undeveloped coast or be allocated by a subsequent development plan document or neighbourhood plan. The latter does not apply here, but the development would maintain the character of the undeveloped coast given its inland location. The development would not result in the coalescence of settlements and their separate identity would be retained. Therefore, the development would not conflict with ALP Policy SD SP3.
51. The Council produced an Interim Housing Statement (IHS) in February 2021 to address the shortfall in housing land supply. It is not part of the development plan but the main parties agree it is a material consideration for this appeal. The IHS applies to sites adjacent to the built-up area boundary and uses a Red Amber Green rating on matters to be addressed. The main parties agree that the development would score green on most matters. It scores amber as it is outside but physically adjacent to the built-up area boundary. It is within a settlement gap but as noted above in my analysis of ALP Policy SD SP3, it would be of size and location that would not significantly compromise the gap or its purposes and so also scores amber.
52. The IHS explains that amber ratings mean that applicable developments will be encouraged where sustainable. The site is within walking distance of various services and facilities in Pagham. There is also a bus stop immediately adjacent to the site on Pagham Road with regular services between Bognor Regis and Chichester. Therefore, the development would encourage sustainable modes of transport as sought by the IHS.
53. The development would not avoid BMV agricultural land as required by the IHS but would seek to protect and conserve as much soil as possible via a soil resources plan to mitigate that loss. Therefore, any conflict with the IHS in this regard would be limited.
54. The Council's most recent Housing and Employment Land Availability Assessment considers the site to be not currently developable, but this is largely due to being contrary to policies regarding its location in the countryside and a gap between settlements rather than any physical constraints. I have already found that there would be no conflict with ALP Policy SD SP3 regarding the gap, while the conflict with ALP Policy C SP1 needs to be considered in the overall planning balance.

#### *Benefits of the development*

55. The development would result the delivery of up to 106 dwellings. The shortfall in housing land supply is significant. It is likely to continue for some time with no imminent remedy through the plan-making process. The update of the ALP has been on pause since autumn 2021 and in July 2022 the Council decided not to resume with the update. The number of dwellings proposed as a percentage

of the housing land supply shortfall is not substantial, but it would still make a meaningful contribution to boosting the supply of housing locally. It could also start delivering units in the next 5 years based on the time limits in the conditions agreed between the main parties. Therefore, I afford the benefit of general housing delivery significant weight.

56. The development would provide up to 32 affordable housing units based on a 30% requirement in ALP Policy AH SP2 and the terms of the S106. While this level of provision is a policy requirement, only 563 affordable dwellings have been delivered between 2016 and 2021 (as shown in the Council's Annual Monitoring Report) compared to a need for 480 affordable dwellings per year as set out in the Council's most recent housing needs evidence from 2016. Thus, significant weight can be afforded to the delivery of affordable housing.
57. I note concerns from some interested parties that Pagham and the western part of the district have already received too many new homes. However, the targets in the ALP are minimums. Moreover, the appellant and the Council agree that new housing sites in Pagham taken together would not achieve the 1,200 minimum homes for Pagham as required by the ALP. I have insufficient evidence to demonstrate that the Council will never meet its five year housing land supply, particularly in the absence of recent progress with the ALP update. Therefore, these matters do not diminish the weight given to the delivery of housing from this development.
58. The development would secure investment and employment at the construction phase, while an employment and skills plan secured by condition has the ability to benefit local people and businesses. An increase in demand for council services from occupants of the development might offset any benefits from increased council tax receipts, but there would also be more expenditure in local services and facilities from new residents. Therefore, I consider the economic benefits of the development carry moderate weight.
59. The provision of real time information screens at the nearest bus stops on Pagham Road, which can be secured by condition, would enhance and encourage people to use sustainable modes of transport. The screens would likely be limited in size and given the proximity of built development would not detract from or urbanise the surrounding area. Therefore, moderate weight can be afforded to this benefit.
60. The forecast level of biodiversity net gain would be greater than any current development plan or legal target and would result in ecological enhancements. The provision of public open space and play facilities would benefit the wider community as well as new residents and in the case of public open space could go beyond the Council's minimum requirements based on the illustrative masterplans. These benefits can be afforded moderate weight. Improvements to on-site drainage represent a benefit although are largely designed in response to the proposed development rather than explicitly addressing an existing issue. Thus, I only give this benefit limited weight. All of the above benefits can be regarded as public ones.

#### *Adverse impacts of the development*

61. There would be conflict with ALP Policy C SP1 due to the location of development in the countryside. However, the weight I attribute to that conflict is reduced by the lack of a five year housing land supply. It is also reduced by

the fact that the development site adjoins the built-up area boundary, where the IHS takes a more positive and pro-active approach to the delivery of such sites where appropriate, given the housing supply position. Therefore, I only afford moderate weight to the conflict with this policy.

62. The development would have a moderate negative effect on the provision of agricultural land and result in some conflict with ALP Policy SO DM1 by failing to provide the required sustainability and options appraisals. However, a comparatively small area of BMV land would be lost, while a soil resources plan would minimise and mitigate any loss. On balance, the need for housing outweighs the need to protect this area of BMV land and so there would be overall compliance with ALP Policy SO DM1. The need for the development would also outweigh the limited conflict with the IHS on this matter.
63. The harm to the significance of the listed Nyetimber Windmill and Rookery Farmhouse would be minor and less than substantial. Although great weight should be given to the conservation of designated heritage assets, the public benefits would outweigh the harm on this occasion. There would be no conflict with NPPF paragraph 202 and the clear and convincing justification required by NPPF paragraph 200 would be demonstrated. Thus, the development would have an acceptable effect on the significance and setting of the listed buildings.

### *Conclusion*

64. The adverse impacts of the development carry no more than moderate weight. In contrast, significant weight can be afforded to some of the benefits and moderate weight to others. In the context of NPPF paragraph 11(d), the adverse impacts would not significantly and demonstrably outweigh the benefits. As a consequence, the presumption in favour of sustainable development would apply in line with NPPF paragraph 11(d). The development would have an acceptable effect on the character and appearance of the area as well as flood risk. The negative effects on the provision of agricultural land are outweighed by other considerations. Therefore, despite the conflict with ALP Policy C SP1, there are sufficient material considerations to indicate that planning permission should be granted in this instance.

### **Planning Obligations**

65. The Affordable Housing obligation would ensure that not less than 30% of the residential units are affordable. This would accord with ALP Policy AH SP2 on affordable housing. The Travel Plan Contribution obligation would secure the monitoring of the travel plan aimed at encouraging sustainable modes of transport, in accordance with ALP Policies T SP1 and T DM1. The SAMM Contribution obligation would provide funding towards management measures to mitigate the effect of residential development at Pagham Harbour SPA in line with ALP Policies ENV DM1 and ENV DM2. The Whyke Junction Contribution obligation would provide funding for improvements at the A27 Whyke Hill junction in line with ALP Policies T SP1.
66. Given the policy requirements, I am satisfied that all of the above obligations are necessary to make the development acceptable in planning terms and are directly related to the development and fairly and reasonably related in scale and kind. They would accord with Regulation 122 of the CIL Regulations 2010 (as amended) and NPPF paragraph 57. Therefore, I can take all the obligations in the S106 into account as part of my decision.

## Conditions

67. Conditions 1 and 2 are necessary to clarify the reserved matters still to be approved as well as set out the timeframe for applications to be submitted and the development implemented. The timeframes are shorter than the standard amount to encourage the earlier delivery of housing. Condition 3 is necessary to specify the plans to which this decision relates.
68. Conditions 4 to 9 contain a number of details that would need to be addressed at the reserved matters stage. Condition 4 specifies the limits to development within the site, which is necessary in the interests of ecology, heritage, and flood risk. Condition 5 requires details that are necessary in the interests of ecology and the character and appearance of the area. Condition 6 would secure the provision and management of public open space and play areas which are necessary to ensure suitable communal outdoor space. The details in Condition 7 are necessary in the interests of access, parking, sustainable travel, and the character and appearance of the area. Condition 8 is necessary to secure accessible housing. Condition 9 is necessary to ensure that ecological mitigation and enhancement measures are included in the landscaping details.
69. Conditions 10 to 19 are pre-commencement as they concern matters that need to be addressed and/or provided before works begin on site. Condition 10 is necessary to ensure that ecological surveys are up to date and mitigation measures provided if species are found. Conditions 11 to 14 and 29 are necessary to ensure appropriate foul and surface water drainage. Condition 15 is necessary given the site's potential archaeological or historic interest. Conditions 16 and 31 are necessary to ensure the construction phase has an acceptable effect on highway safety, living conditions, and ecology. Conditions 17 and 30 are necessary to address any contaminated land issues. Condition 18 is necessary to protect and reuse the best and most versatile soil within the site, while Condition 19 is necessary for local people have the opportunity to secure employment at the construction phase.
70. Condition 20 is necessary in the interests of character and appearance and Condition 21 is necessary to achieve reductions in energy use. Conditions 22 and 28 are necessary to ensure a satisfactory noise environment for future residents, Condition 23 to provide fire safety equipment, and Condition 24 to secure high speed broadband. Condition 25 is necessary for highway safety and Conditions 26 and 27 for encouraging sustainable transport modes. Condition 32 is necessary to maintain air quality levels.

## Conclusion

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

*Tom Gilbert-Wooldridge*

INSPECTOR

## **Appearances**

### For the Appellant:

Thomas Hill KC	Counsel
Owen Jones BA (Hons) DipTP MSc MRTPI PIEMA	LRM Planning
Dean Swan HND Civil Engineering MCIHT FIHE	Brookbanks Consulting

### For the Local Planning Authority:

Simon Davis BA (Hons) DipTP MRTPI	Arun District Council
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### Interested Parties who spoke at the Hearing:

Dawn Hall	Pagham Parish Council
Colin Hamilton	Local resident
Alan Pivett	Local resident

## **Documents submitted during the Hearing**

1. Updated Context Plan ref P21-2766\_03 Sheet No. 6 Rev F
2. Pagham Road Illustrative Montage Drawing ref P21-2766\_20 Rev A
3. Agricultural Land Classification Areas Plan ref P21-2766\_19
4. Statement from Dawn Hall
5. Statement from Colin Hamilton
6. Advice on drainage rights from Shoosmiths LPP dated 14 November 2022

## **Documents submitted after the Hearing**

1. Updated list of conditions
2. Completed and executed Section 106 agreement dated 1 December 2022

### **Schedule of Conditions (32)**

- 1) Details of the 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. An application for the approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 4 years from the date of this permission or not later than 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan Drawing No P21-2766 05 Rev E
  - Proposed Access Arrangement Drawing No JNY10700-01 Rev D
- 4) The layout details to be submitted pursuant to condition 1 shall ensure that:
  - a) There is no built development placed within the part of the site designated by the Arun Local Plan as part of a Biodiversity Improvement Area;
  - b) Either (i) all properties are situated outside the Design Flood Event (which is the Brookbanks Consulting Ltd 0.5% (1 in 200 year) 2115 undefended with climate change) outline as shown on drawing 10821-SK05; or (ii) any properties that fall within the Design Flood Event have a Finished Floor Level of at least 300mm above the Design Flood Event;
  - c) Dark wildlife buffer areas are proposed to the site's edges and that these are kept free of lighting; and
  - d) As per the submitted Historic Environment Desk Based Assessment (ref PN2721/HEDBA1, October 2021), there is a development free zone in the south-eastern corner in order to maintain a sight line of the Grade II listed Nyetimber Windmill from Pagham Road.
- 5) The landscape and layout details to be submitted pursuant to condition 1 shall include the following items:
  - a) Details of all existing trees and hedgerows on the land indicating which are to be retained and which are to be removed. These required details are to include a Tree Survey Schedule, a Root Protection Area Schedule, a Tree Constraints Plan, and in the event that a root protection area of any tree which is proposed for retention overlaps the development, then an Arboricultural Method Statement and a Tree Protection Plan. Development shall be carried out in accordance with the approved details. No hedge or tree shall be felled, uprooted, or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the local planning authority;

- b) Full landscaping details including the use of native trees and compensatory planting on the basis of 2 trees/hedge units for every 1 lost;
  - c) Details of the position, design, materials, height, and type of all boundary treatments to be provided. The boundary treatments shall be provided to each dwelling before the dwelling is occupied or in accordance with the approved phasing plan. Gaps shall be included at the bottom of the fences to allow movement of small mammals across the site. Development shall be carried out in accordance with the approved details and permanently retained in a useable condition thereafter;
  - d) Full details of how the existing hedgerows are to be protected with secure fencing to establish a 5m buffer zone during construction (unless such a buffer is not possible due to the position of agreed buildings in which case a reduced buffer will be acceptable). The development shall thereafter proceed in accordance with the approved hedgerow protection measures;
  - e) A Landscape Environmental Management Plan to provide full details on how the habitats and enhancements on the development will be managed post construction; and
  - f) Full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also minimise potential impacts to any bats using trees and hedgerows (in accordance with the BCT/ILP Guidance Note 08.18) by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Care should be exercised in respect of lighting directed to the site boundaries. The lighting approved shall be installed and maintained in accordance with the approved details.
- 6) The layout and landscape details to be submitted pursuant to condition 1 shall include full details of the required public open space (POS) & play areas and management arrangements. The POS and play areas shall thereafter be implemented in accordance with the provision as agreed prior to occupation of 50% of the completed dwellings approved pursuant to condition 1 and then permanently retained thereafter. The approved management details shall be permanently adhered to.
- 7) The layout, scale, and appearance details to be submitted pursuant to condition 1 shall include the following items:
- a) Circulation routes and how these fit into the surrounding access network;
  - b) A scheme for the provision of facilities to enable the charging of electric vehicles in accordance with the Arun Parking Standards SPD to serve the approved dwellings;

- c) A detailed level survey of the site including existing and resulting ground levels and the slab levels of the buildings the subject of this approval;
- d) 5% of all parking provided as suitable for disabled persons;
- e) Full details of cycle storage including elevations where such is provided in separate buildings; and
- f) A colour schedule of the materials and finishes to be used for the external walls and roofs of the proposed buildings.

These items shall be implemented in accordance with the agreed details and permanently retained thereafter.

- 8) Detailed plans and particulars of the reserved matters submitted to the local planning authority for approval pursuant to condition 1 shall ensure that 50% of the approved dwellings are designed to meet the Building Regulations M4(2) standard and an additional two units shall be constructed to M4(3) standard for every 50 dwellings developed on the site as defined by 'Access to and use of Buildings: Approved Document M'.
- 9) The development shall be carried out in complete accordance with the mitigations and enhancements set out in sections 6.8-6.22 of the Ecological Appraisal (December 2021) and also in respect of any recommendations in the accompanying supporting survey reports (contained as appendices to the document). All proposed enhancements shall be detailed in the landscape details to be submitted pursuant to condition 1.
- 10) No development, including site access or associated construction activities, shall commence unless and until the site has been re-surveyed for water voles, badgers, and hedgehogs. If water voles or badgers (or a badger sett) are found to be present, then an appropriate mitigation strategy shall be provided to the local planning authority for approval in writing prior to commencement of the development. Any hedgehogs that are found to be present shall be relocated away from the construction area into surrounding suitable habitats.
- 11) 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.
- 12) No development shall 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. Design considerations must take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council and are an overriding factor in terms of requirements. 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 dwelling shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

- 13) No development shall commence until details have been submitted to and approved in writing by the local planning authority for any proposals to discharge flows to watercourses, or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values and in accordance with current policies. No construction is permitted that will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.
- 14) No development shall commence 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.
- 15) No development shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. The development shall thereafter proceed in accordance with the approved scheme.
- 16) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) and accompanying Site Setup Plan has been submitted to and approved in writing by the local planning authority (who shall consult with the local highway authority and the Council's Environmental Health Officer and Ecologist as appropriate). Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period. This shall require disturbance during demolition and construction to be minimised and will include (but not be limited to) details of the following information for approval:
  - a) the phased programme of construction works;
  - b) the anticipated, number, frequency, types, and timing of vehicles used during construction (construction vehicles should avoid the strategic road network during the peak hours of 0800-0900 and 1700-1800 where practicable);
  - c) the sheeting of any loose loads;
  - d) the means of access and road routing for all construction traffic associated with the development;
  - e) provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of

construction upon the public highway (including the provision of temporary Traffic Regulations Orders);

- f) details of street sweeping;
- g) construction vehicle delivery times;
- h) details of a means of suppressing dust & dirt arising from the development;
- i) a scheme for recycling/disposing of waste resulting from demolition and construction works (i.e., no burning permitted);
- j) details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination);
- k) details of areas for the loading, unloading, parking, and turning of vehicles associated with the construction of the development;
- l) details of areas to be used for the storage of plant and materials associated with the development;
- m) details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate);
- n) contact details for the site contractor, site supervisor and CDM co-ordinator (including out-of-hours contact details);
- o) details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works;
- p) details of any temporary traffic management that may be required to facilitate the development including traffic signage; and
- q) measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed to deal with complaints and shall be available on site and their availability made known to all relevant parties. The CEMP shall also include reference measures to minimise disturbance to bats and other wildlife during construction including the briefing of site operatives, monitoring by an ecologist, and either securing or providing a means of escape for all deep pits, trenches, and/or holes present on the site during periods of darkness.

- 17) 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 Site Investigation Scheme, based on the Brookbanks Geo-Environmental Phase 1 Desk Study (ref 10821) to provide

information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;

- b) Based on the Site Investigation Scheme and the detailed risk assessment in (a), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and
- c) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action and a programme for its implementation.

Any changes to these components in (a) to (c) require the express written consent of the local planning authority. The scheme shall be implemented as approved above. In accordance with the implementation programme agreed under (c) (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 for the reporting of this in writing to the local planning authority.

- 18) 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.
- 19) No development shall commence until an Employment and Skills Plan (ESP) for the construction of the development hereby approved has been submitted to and approved in writing by the local planning authority. The approved ESP shall then be implemented and permanently adhered to throughout the construction phase of the site.
- 20) Should any temporary showhome/s or sales areas be required then full details shall be provided prior to any part of the development site reaching damp proof course (DPC) level. Such details shall include any temporary buildings or temporary changes to buildings and any temporary change to the development layout. The approved details shall be for a temporary period only ending on or before the date that the last dwelling on the site has been sold. The buildings or area shall then be returned to their approved permanent appearance within 3 months of the date of the last building sold.
- 21) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as

described in the glossary at Annex 2 of the NPPF) 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 for each phase or sub phase of development, including details of physical works on site, shall be submitted to, and approved in writing by the local planning authority prior to construction above damp-proof course (DPC) level in that phase or sub phase. The development shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.

- 22) No development above DPC level shall take place unless and until a scheme to demonstrate that 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 has been submitted to and approved in writing by the local planning authority.

The submission shall include details compiled by a qualified acoustician on sound insulation and noise reduction for buildings and gardens. 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.

- 23) No development above DPC level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the local planning authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations 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.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

- 24) Prior to the occupation of any part of the development, a strategy for the provision of the highest available headline speed of broadband provision to future occupants of the site shall be submitted to and approved in writing by the local planning authority. The strategy shall take into account the timetable for the delivery of 'superfast broadband' (defined as having a headline access speed of 24Mb or more) in the vicinity of the site (to the extent that such information is available). The strategy shall seek to ensure that upon occupation of a dwelling, the provision of the highest available headline speed of broadband service to that dwelling from a site-wide network is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway. Unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the majority of potential customers

will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the approved strategy.

- 25) No part of the development shall be first occupied until such time as the vehicular access, visibility splays and ancillary footway connections serving the development have been constructed in accordance with the details shown on the drawing "Proposed Access Arrangement" ref JNY10700-01 Rev D. Once provided the visibility splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above the adjoining carriageway level.
- 26) No part of the development shall be first occupied until a scheme of real time information screens at the two bus stops (north and southbound) on Pagham Road in the immediate vicinity of the development along with a timetable for their installation has been submitted to and agreed in writing by the local planning authority. Once approved the scheme shall thereafter be implemented in accordance with the approved timetable.
- 27) No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall accord with the principles set out in the Framework Travel Plan (JNY10700-01a) and once approved shall thereafter be implemented as specified within the approved document.
- 28) Prior to the first use of the electricity substation, an acoustic report assessing the impact shall be submitted to and approved in writing by the local planning authority. The report shall address the issue of noise (including low frequency noise) and vibration from the station to ensure that there is no adverse effect to residential or commercial properties.

The scheme shall ensure that the low frequency noise emitted from the substation is controlled so that it does not exceed the 'Low Frequency Criterion Curve' for the 10 to 160 Hz third octave bands inside residential accommodation as described in the DEFRA funded University of Salford guidance document entitled 'Procedure for the Assessment of Low Frequency Noise Complaints' (NANR45 Rev.1 – December 2011).

The electricity substation equipment shall be maintained in a condition so that it complies with the levels and mitigation measures specified in the approved acoustic report, whenever it is operating. After installation of the approved plant, no new plant shall be used without the written consent of the local planning authority. Where substation plant is replaced, it shall adhere to the noise and vibration levels specified herein.

- 29) Immediately following implementation of the approved surface water drainage system and prior to the occupation of any part of the development, the local planning authority shall be provided 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) 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. 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. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the local planning authority prior to completion of the development.

- 31) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours on Mondays to Fridays and from 08:00 hours until 13:00 hours on Saturdays, with no work on Sundays or Bank/Public Holidays.
- 32) Should any gas boilers be installed in the dwellings then they shall meet the minimum standard set out in paragraph 8.6 of the Air Quality Assessment JAR02954 Rev 1 16/02/22.