



Appeal Decision

Site visit made on 24 September 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/L3815/W/23/3330753

Birdham Straight House, Main Road, Birdham, West Sussex PO20 7HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Andrew White (Boughtonwood Homes Limited) against the decision of Chichester District Council.
 - The application Ref is BI/22/01918/FUL.
 - The development proposed is the removal of single storey sunroom to existing house and construction of five new two storey houses, together with garages, parking, and revised access arrangements.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of single storey sunroom to existing house and construction of five new two storey houses, together with garages, parking, and revised access arrangements at Birdham Straight House, Main Road, Birdham, West Sussex PO20 7HS in accordance with the terms of the application, Ref BI/22/01918/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 12 December 2024. The changes include a requirement for the Council to demonstrate the provision of a 5-year housing land supply, rather than a 4-year supply as required by the previous version of the Framework. The Council's confirmed 4.19 years supply of housing would therefore fail to meet this requirement. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.
3. Since the refusal of the planning application on 21 April 2023, work has progressed significantly on the emerging *Chichester Local Plan 2021 – 2039* (the eLP). It was submitted for examination in May 2024 and the Examination Hearings concluded on 13 November 2024.
4. I sought an update from the Council regarding any eLP policies that it considers to be relevant to the determination of this appeal and the weight that it considers should be attached to them, particularly in light of any objections received and the Examination Hearings that have taken place.

5. In response, I have not been provided with sufficient information from which to establish whether, and if so when, the eLP is likely to be adopted, or whether policies I1, T1 and T2, referred to in the Council's decision notice, are likely to be modified because of any unresolved objections, or findings from the examining Inspector. As such, based on the evidence before me, I attach limited weight to these policies.
6. Nor have I been provided with copies of, and specific evidence in relation to, any other eLP policies that the Council consider would replace or be contrary to the development plan policies referred to in the Council's reasons for refusal. As such, I concur with the view of the Council, which is not disputed by the appellant, that policies in the eLP would not materially affect the outcome of the planning application. I have dealt with the appeal accordingly.
7. Since the refusal of the planning application and the submission of the appeal, the Council has adopted the *Chichester Local Plan 2014-2029 – A27 Chichester Bypass Mitigation Supplementary Planning Document* (October 2024) (the 2024 SPD). The main parties have had the opportunity to submit comments in respect of this document.
8. During the course of this appeal, in order to address the Council's third and fourth reasons for refusal, the appellant has submitted two formally completed unilateral undertakings (UU), pursuant to section 106 of the Town and Country Planning Act 1990, signed and dated 10 May 2024 and 3 December 2024 in respect of contributions towards: i) the provision of access mitigation measures in respect of recreational impacts upon the Chichester and Langstone Harbours Special Protection Area (the SPA); and, ii) towards the provision of highway improvements to mitigate the impacts upon the strategic and local highways networks.
9. The UUs contain 'blue pencil' clauses in respect of alternative figures for the highways contribution, to be paid, subject to which amount, if any, is deemed during the determination of this appeal to comply with Regulation 122(2) of the CIL Regulations and to be necessary to enable the appeal to succeed. This is a matter to which I later return.

Application for costs

10. An application for costs was made by Andrew White (Boughtonwood Homes Limited) against Chichester District Council. This application will be the subject of a separate Decision.

Main Issues

11. The Council's second reason for refusal includes reference to "an unacceptable overbearing impact to the adjoining neighbours". The Officer Delegated Report confirms that this matter related to the impact of the proposed dwelling on plot 1 on the outlook from the rear gardens of the neighbouring properties in Old Common Close. The Council's statement of case confirms that this objection has been overcome through changes to the design of unit 1 prior to the determination of the application, to reduce its proposed scale and height.
12. Accordingly, the main issues are:
 - The effect of the proposal on the character and appearance of the area;

- The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to privacy impacts;
- Whether the proposal would have a satisfactory impact upon the highway network in respect of making adequate provision for highways infrastructure, with particular regard to the A27; and
- Whether the proposal would provide adequate mitigation for the Chichester and Langstone Harbours Special Protection Area (SPA), with particular regard to recreational and nitrates impacts.

Reasons

Character and appearance

13. The appeal site comprises a roughly U-shaped area of land which wraps around, and currently forms part of the large garden of, a detached two storey dwelling, known as Birdham Straight House. It lies on the northwest side of the A286 (Main Road), and within the designated Settlement Boundary Area of Birdham. There are vehicular accesses from Main Road at the front of the site and Longmeadow Gardens at the rear.
14. The planning application consultation response from the statutory consultee in respect of this matter, the Chichester Harbour Conservancy (the CHC), confirms that the site lies within the Chichester Harbour National Landscape (the CHNL). As such, it is afforded the highest status of protection in relation to issues of conserving and enhancing landscape and scenic beauty in accordance with Paragraph 189 of the Framework.
15. The CHC has raised no objection to the proposal having regard to its visual impact upon the CHNL. I find that the appeal site makes a limited contribution to the scenic beauty or special qualities of the National Landscape, given its location away from the Harbour on the eastern edge of the designated area. Moreover, it lies within the urban settlement boundary, where built residential development defines the character of this part of the western side of the heavily trafficked Main Road. As such, I have considered the impact upon the CHNL having regard to how the proposal impacts upon the character and appearance of the edge of settlement location within which it lies.
16. The edge of the settlement boundary lies south of the site, where there is undeveloped amenity and recreational land. There are also open fields on the opposite side of the road. This part of Main Road is lined with mature trees and hedging, including along the frontage of the appeal site.
17. The site is mainly given over to soft landscaping, including a large area of lawn, and there are also mature trees and hedging along the side boundaries of the site, including some protected trees, such as a large Oak near the south-west corner of the site.
18. The parent property, a two-storey render, brick and tiled, hipped roof dwelling, is sited between the access drive which runs roughly east to west across the appeal site and the adjacent housing to the north. It sits unobtrusively within the townscape, being set back from Main Road, and is largely obscured in views from the street by the boundary landscaping.

19. All the above factors combine to give the site a distinctly semi-rural character, so that, when combined with the site of the parent property, it acts as a transition between the established residential development to the north and west and the open countryside to the south and east.
20. The urban grain of nearby built development comprises an ad-hoc organic layout of residential development. In addition to frontage properties facing Main Road and Crooked Lane, there are a series of cul-de-sacs leading off these roads in different directions and incorporating a variety of different dwelling layout orientations in relation to their road frontages.
21. Traditionally designed domestic-scale development prevails, and there is a mix of detached, semi-detached and terraced dwellings, as well as single, two, and two and a half storey height buildings. In terms of materials there is a preponderance of brick built and rendered dwellings under tiled and slate pitched or hipped roofs.
22. The proposal would provide 4 detached two storey family-sized houses and a one and a half storey chalet bungalow. These dwellings, together with the host property, would be perceived as forming part of a wider 6-dwelling development. The sunroom of the existing property would be removed to facilitate the positioning of unit 3, and it would share vehicular access with 3 of the new units.
23. The proposed dwellings, together with single storey covered parking provision, would incorporate a variety of individual designs and roof forms, which would provide visual interest to the development. However, they would also respect the aforesaid prevailing built form of residential development, having regard to their height, which includes a mix of single, one and a half and two-storey built development, on land which lies between single and two and two and half storey dwellings, and predominance of brick material and tiled hipped roofs.
24. The appeal scheme layout would not precisely replicate that of any particular element of the surrounding residential development. However, it would not be out of keeping with the aforesaid organic arrangement of dwellings which characterises the locality.
25. Notwithstanding the orientation of the host property in relation to the proposed unit 3, four of the new dwellings would be perceived as an extension to the cul-de-sac at Longmeadow Gardens, from which they would be accessed. This would expand upon the existing situation whereby the existing two storey dwelling benefits from access from Longmeadow Gardens, thereby presenting a set-back two-storey built structure within that street scene.
26. The proposed two-storey houses would be set well back within the appeal site, and sufficiently separated from the existing bungalows in Longmeadow Gardens by the road turning head and access drive to two existing houses leading off the northern side of this road, and by the adjacent heavily vegetated undeveloped land at the end of the opposite side of the road. As such, the two-storey height of the new dwellings would not appear unduly incongruous within the largely single storey townscape of that road.
27. At the eastern end of the proposal, Plots 1 and 2 would utilise the existing domestic access from Main Road. These new dwellings would be viewed as a continuation of the built residential development adjacent at Old Common

- Close which contains houses located in a similarly close and off-set position in relation to Main Road.
28. Whilst each pair of dwellings within the appeal scheme would be sited close to each other, they would each sit within plots which would provide generous individual gardens to each property. As such, notwithstanding their large footprint and two storey height, the scale and positioning of the new dwellings would not be unduly cramped. Moreover, the proposed retention of existing boundary landscaping and the introduction of new trees would act to soften the impact of the new built development.
29. The proposed density of development would be comparable with other nearby residential development and would be appropriate for this edge of settlement site location. It would be approximately half the density of the more recent housing development at Old Common Close to the north, which includes elements of significantly higher density terraced housing as well as low density large houses in generous plots.
30. Having regard to the impact of the proposal on the wider area, the site currently forms part of the curtilage of the parent property and its context is that of being within the urban settlement of Birdham, with access from the busy Main Road. The proposal would result in a contained form of built development that would not expand beyond the existing settlement boundary. Also, it would not be visually perceived as so doing, due to the proposed retention of mature boundary landscaping along the western edge of the site frontage.
31. The heavily vegetated parcel of land to the west would act as a green containment to the built development, separating it from the more open recreational ground beyond. The main throughfare of Main Road also acts as a clear boundary between the urban settlement and the wider open countryside on the other side of the road. Accordingly, I am satisfied that the proposal would not materially harm the wider visual amenities of the locality.
32. For the above reasons, I therefore conclude that the proposal would not materially harm the character and appearance of the area. As such, the appeal scheme would accord with Policies 33, 43, 47 and 48 of the *Chichester Local Plan: Key Policies 2014-2029* (2015) (the LP) and Policy 16 of the Birdham Parish Neighbourhood Plan (2016) (the NP).
33. These policies, amongst other things, seek to ensure that new residential development meets the highest standards of design, that it respects and where possible enhances the character of the surrounding area and site, its setting in terms of, inter alia, its proportion, form, massing, siting, layout, density, height, size, scale and detailed design, that it reinforces and responds to the distinctive character and special qualities of the AONB (now referred to as the National Landscape) and that it maintains the individual integrity of settlements and respects the integrity of open undeveloped land between settlements.
34. For similar reasons, the development accords with guidance in Chapter 12 of the Framework which seeks to achieve well-designed places.

Living conditions – privacy

35. The Council's concerns in respect of privacy relate to the juxtaposition of proposed Unit 3 and the existing dwelling at Birdham Straight House.

Specifically, that due to the principal front elevations of each dwelling being oppositely orientated to each other, there would be overlooking from the front elevation of each property to the rear garden of the other.

36. The appeal scheme has been designed to take account of previously approved alterations to the parent property¹, including the removal of a ground floor extension, to facilitate the creation of a smaller curtilage for that dwelling and the proposed positioning of unit 3 close to it.
37. These dwellings would be sited side by side with similarly aligned front and rear walls. Whilst there would be some potential for front and rear upper floor windows of both properties to look sideways down onto the front and rear gardens of their neighbour, this is not an uncommon arrangement of properties within urban built-up areas. As such, I do not find it to be unduly harmful to neighbouring living conditions. Moreover, there would be no upper floor principal room windows on the north elevation of unit 3 directly facing the parent property.
38. For the above reasons, I therefore conclude that the proposal would not result in material harm to the living conditions of neighbouring occupiers, with particular regard to privacy impacts. As such, the proposal would accord with LP Policy 33, in so much as this policy requires new residential development to provide a high-quality living environment and to respect neighbouring amenity.
39. This is generally consistent with Paragraph 135 of the Framework, which seeks to ensure that developments will function well and promote health and well-being and a high standard of amenity for existing and future users.

Highways infrastructure

40. The Council says that due in part to the notable delivery of housing in the south part of the District, the Strategic Road Network (SRN) is at or over capacity. As part of the evidence base for the eLP, the Council's transport studies have identified that further highway improvements will be required to mitigate the impact of new development, particularly in relation to junction improvements on the A27 Chichester Bypass.
41. The Council is concerned that there would be harmful in-combination effects of the appeal proposal, together with other new residential development, upon the safety and function of the Strategic Road Network (SRN) and the Local Highway Network (LHN), such that there is a need for a mitigation contribution. Notwithstanding the submitted UUs, this is disputed by the appellant.
42. The LP recognises that road congestion is a major issue affecting the parts of the Plan area, including the junctions on the A27 Chichester Bypass. Amongst other proposed transport measures, a key element of the Council's strategy to mitigate projected traffic impacts arising from new housing and other development over the Plan period, is a package of improvements to the six junctions on the A27 Chichester Bypass.
43. LP Policy 8 requires integrated transport measures to mitigate the impact of planned development on the highways network. Based on evidence from a Transport Study, this includes specific provision for a coordinated package of improvements to junctions on the A27 Chichester Bypass that will increase

¹ LPA Ref B1/22/01905/DOM

- road capacity, reduce traffic congestion, improve safety, and improve access to Chichester city from surrounding areas.
44. LP Policy 9 seeks to ensure that all development proposals should, amongst other things, provide or fund new infrastructure, facilities or services required, both on and off site, as a consequence of the proposal and, where appropriate, mitigate the impact of the development on existing infrastructure, facilities or services and fund or contribute to improvements to increase the effectiveness and efficiency of infrastructure, facilities or services.
45. Policies 8 and 9 are supported in the above aims by the *Planning Obligations & Affordable Housing Supplementary Planning Document* (2016) (the 2016 SPD). This includes a cost-per-dwelling based contribution requirement towards A27 Chichester Bypass junction improvements at 4 junctions.
46. Whilst funding has been achieved for highway works through the 2016 SPD, the Council is of the view that the increase in costs over the time since the adoption of the LP and the 2016 SPD mean that the mitigation of highway impacts from further housing could not be delivered. I do not doubt that this is the case, having regard to the time that has elapsed since their introduction and their non-indexed nature. Moreover, there is evidence before me that the National Highways Authority agree with the Council's decision to revise the 2016 SPD having regard to the significant increase in the cost of A27 mitigation works that has occurred.
47. In order to address this, as an interim measure, pending the adoption of the eLP, the Council has recently adopted the 2024 SPD. This is intended to support LP Policies 8 and 9 by setting out how the costs of the remaining junction improvements can be met by increasing the level of contributions sought. The 2024 SPD is intended to be read alongside the 2016 SPD, by only replacing the section of that document which specifically relates to the A27 Chichester Bypass junction improvements.
48. Based upon the figures contained in the 2024 SPD, the Council seeks a financial contribution of £47,440 towards the A27 LP mitigation works. This is disputed by the appellant since the 2024 SPD amends paragraphs 4.46 – 4.54 of the 2016 SPD that only sought highway contributions towards improvements to the A27 Chichester Bypass from developments of 50 or more additional dwellings, and within locations² outside of which the appeal site lies.
49. As such, the appellant's view is that the contribution should not be applied to the appeal scheme based on an untested SPD requiring a contribution which would not have been required under the 2016 SPD and which would, in the appellant's view, be financially unviable for small residential developments of the scale proposed.
50. I acknowledge the appellant's concern that the 2024 SPD has been produced in advance of the adoption of the eLP, whose final housing figures and associated infrastructure requirements have not yet been determined.
51. However, of significance to the consideration of this matter is that the 2024 SPD is explicit in stating that it is seeking to achieve the aims of the adopted LP rather than the eLP. It aims to provide an interim position for the continued

² Chichester City, East Wittering/Bracklesham and Southbourne

provision of what the current LP is seeking to achieve, and it will be withdrawn when the LP is eventually superseded.

52. Moreover, I agree with the views of very recent appeal decision³ Inspectors who considered that 'As a matter of principle, particularly given the economic conditions that have occurred since the adoption of the LP and the 2016 SPD, it is sensible for the Council to update through that process the financial contributions required to deliver what the LP is seeking to deliver. They have adopted the 2024 SPD following public consultation, and whilst trying, without success, to secure the gap funding from central government. They also abandoned their previous attempt at providing an updated SPD because in part it was acknowledged that it could arguably be criticised for relating to developments being brought forward through the eLP which was at that time in its formative stages. The 2024 SPD adds further detail to the LP Policies, how those aims may be achieved and does not conflict with those policies. It is a material consideration to which I give substantial weight.'
53. The appeal scheme in isolation would not result in a severe impact upon the highway network, and West Sussex County Council as the Highway Authority has not stated that a contribution is required from this development or identified 'severe' cumulative impacts. Moreover, the appeal scheme is not of such a large scale or within such proximity to the SRN that it has generated comments from Highways England.
54. However, the requirement in the 2024 SPD for all development to contribute towards highway improvements is clear, with the severe highway impacts from not doing so being further congestion cumulatively arising from developments. Moreover, it is also clear from the 2024 SPD that the financial contribution would be put towards improvements to the A27 Chichester Bypass, which may include works to the related junctions of the A27 or to highway works related to those junctions that would result in improvements to the flow of traffic on the A27.
55. As such, I am satisfied that the Council's requested financial contribution would address the aims of the 2024 SPD and be put towards mitigation of highway impacts on the A27 arising from additional traffic upon the A27 Chichester Bypass because of additional housing, which needs to be mitigated for.
56. As such, I find that the Highway Network Contribution, as requested by the Council and secured through the appellant's UU dated 3 December 2024, meets the tests for planning obligations in the Framework and the statutory tests within regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
57. I acknowledge that in previous decisions taken prior to the adoption of the 2024 SPD, Inspectors have reached a different view to that taken here. However, for the reasons given above, notwithstanding that the 2024 SPD was not in place at the time of the determination of the planning application, my appeal decision must reflect the current adopted policy situation. As such, I must give substantial weight to the most recent adopted SPD in calculating the necessary highway contributions to provide mitigation for the increased population that would occupy the appeal scheme.

³ APP/L3815/W/24/3341520, APP/L3815/W/24/3341439 and APP/L3815/W/24/3348420

58. Moreover, I have not been provided with substantive evidence that payment of the contribution required by the 2024 SPD would render the appeal scheme unviable.
59. In relation to this main issue, with the contribution secured through the submitted UU dated 3 December 2024 in accordance with the 2024 SPD, the appeal scheme would have a satisfactory impact upon the highway network in respect of making adequate provision for highways infrastructure, with particular regard to the A27. The necessary delivery of transport infrastructure would be provided for, which would comply with the aforesaid objectives of LP Policies 8 and 9, as well as the 2024 SPD. The lower contributions contained within the UU dated 10 May 2024 would not suitably mitigate the impact of the proposed developments.
60. In this regard, the proposal also complies with the provisions of the Framework which promote sustainable travel and mitigate any significant impacts on the transport network from development (Paragraph 115).

SPA – recreation and nitrates

61. The site lies within the 5.6 km Zone of Influence for the Chichester and Langstone Harbour Special Protection Area (SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) require that where a project is likely to result in a significant effect on a European site, a competent authority is required to make an appropriate assessment of the implications on the integrity of the European site in view of its conservation objectives. Any likely significant effects arising from the development need to be considered alone and in combination with other development in the area.
62. The proposed dwellings would support an increase in population, giving rise to a likely increase in use of the habitats sites for recreational purposes and increased discharges of wastewater and surface water resulting in additional nutrients entering the SPA. Potentially significant in-combination effects on the integrity of the habitats sites cannot therefore be excluded.
63. Under Regulation 63 of the Habitats Regulations, I am required, as the competent authority to undertake an Appropriate Assessment (AA) of the proposal based on its likely significant effects on European Protected sites. In so doing, I have consulted Natural England (NE), noting that the Council did not carry out an AA or consult with NE either during the application or the appeal process.
64. The qualifying features of the SPA include a variety of breeding and non-breeding waterfowl. The conservation objectives include maintaining or restoring the population, distribution and habitats of qualifying features.
65. The proposal would give rise to likely significant effects on the qualifying features of the SPA through increased recreational use of the habitats during occupation (alone or in-combination) causing degradation and disturbance during occupation. Overwintering bird populations inhabiting the protected sites would be particularly vulnerable to disturbance resulting from the increase in visitor numbers.
66. Other likely significant effects could occur because of increased discharge of nutrients in wastewater and surface water during occupation (alone or in-

combination) entering into the SPA. These impacts would all be at odds with the conservation objectives.

Recreation

67. The Council's strategy for mitigation of recreational disturbance is set out within the Bird Aware Solent Recreation Mitigation Strategy 2017 (the SMS), which was produced in cooperation with (NE) and which is delivered by the Solent Recreation Mitigation Partnership. This is effectively a Strategic Access Management and Monitoring Scheme to fund a package of wardening, education, green infrastructure improvements and monitoring. The required contribution of £4837 towards the necessary mitigation as detailed within the SMS would be secured from the proposed development through the submitted UU dated 3 December 2024. No objections have been raised by NE on this basis. I am therefore satisfied that this passes the Regulation 122 tests. This enables me to conclude that the development would not have an adverse effect on the integrity of the habitats sites because of recreational impacts.

Nitrates – surface water

68. There is a lack of definitive mapping imagery and detailed hydrological information before me to ascertain whether surface water from the development would drain into Chichester Harbour or whether the site falls within the Broad Rife catchment area, which runs close to the southern and western site boundaries. Should the latter be the case, this would satisfactorily address the Council's fifth reason for refusal in respect of nitrates associated with surface water discharge entering the SPA.
69. The appellant has not provided substantive local hydrological evidence to demonstrate that surface water from the site would not drain into Chichester Harbour. However, the appellant's view is that a suitably designed SuDS drainage scheme, which complies with the requirements of National and Local policy⁴, would provide water quality improvement to all surface water leaving the site or discharging into the ground. As such, even if the surface water subsequently travels on to reach the Chichester Harbour SPA, it will have already been treated on site and therefore pose no pollution risk to the SPA.
70. Moreover, the application of Natural England's Nutrient Neutrality Budget Calculator for the Solent Marine Catchments indicates that the appeal scheme would not result in any additional 'nutrient load' in respect of surface water, since the site area and existing land-use classification as residential urban land would remain unchanged as a result of the appeal scheme.
71. The appellant has submitted a Surface Water Drainage Strategy which confirms that there are two possible SuDS options. The preferred option is via infiltration to the ground, or, alternatively, should this not prove to be practical, following on-site infiltration testing, via restricted discharge to the nearby water course which runs along Main Road. As such, it considers this matter is capable of being dealt with by means of a planning condition.
72. Notwithstanding the precautionary approach taken by the Council, given the specific circumstances of this appeal, and a lack of cogent evidence to the contrary from the Council, I am satisfied that the evidence submitted by the appellant, including a Surface Water Appeal Statement, provides sufficient

⁴ CIRIA 753 The SuDS Manual

confidence that a suitable SuDS proposal is capable of being implemented. As such, this matter is capable of being dealt with by means of a Grampian condition requiring full details of the SuDS scheme to be submitted to and approved in writing by the Council prior to the development commencing. In coming to this view, I have taken account that no objection to this approach has been raised by NE or the Council's Drainage Authority.

Nitrates – foul water

73. Whilst foul water impacts did not comprise a reason for refusal, as the competent authority, I have a duty to consider this matter. Sewage from additional new residential development using waste-water treatment works or an on-site package treatment plant that discharges into Chichester Harbour contributes to excess nutrients in the Harbour which leads to eutrophication (algal growth) which harms the ecology and conservation of the Harbour. As such, new residential development needs to be nutrient neutral in order to avoid such harmful impacts.
74. In this instance, the appellant has confirmed that the Wastewater Treatment Works (WWTW) Catchment Map for Sidlesham identifies the site to be within the catchment area of Sidlesham WWTW, which discharges to Bracklesham Bay. This is outside Chichester Harbour and any SPA. This is evidenced by a sewer capacity check undertaken by Southern Water, which also confirms that there is adequate foul flow to accommodate the proposed development at an existing manhole near the site.
75. As such, since the site is not located within an area served by a WWTW that discharges into a European Site and NE has raised no objection to this approach, I am satisfied that the development would not have an adverse effect on the integrity of the SPA because of additional foul water discharge.
76. For the above reasons, I therefore conclude that, having regard to recreational and nitrate impacts, the proposed development, subject to the aforesaid mitigation measures, would not have an adverse impact upon the integrity of the SPA. As such, there would be no conflict with LP Policy 50 (Development and Disturbance of Birds in Chichester and Langstone Harbours SPAs), eLP draft Policy NE19 (Nutrient Neutrality) or the Habitats Regulations.
77. This accords with guidance in Paragraph 193 of the Framework which requires significant harm to biodiversity arising from development to be avoided, adequately mitigated, or as a last resort, compensated for.

Other Matters

78. I have taken account of third-party objections in respect of other matters not related to the main issues above. Having regard to neighbouring light and privacy concerns, I am satisfied that material harm would not arise, having regard to the design of the appeal scheme and the juxtaposition and separation distances between the proposed development and neighbouring properties.
79. Whilst there may be some disruption and additional traffic movements during construction period, this would be for a relatively short time, and working practices during that time would be controlled by a condition.
80. Having regard to highway safety, the Council has raised no objection in respect of the impact of the development within the locality of the appeal site, finding

proposed access and parking provision to be acceptable. I am satisfied that traffic and parking matters would be satisfactorily addressed by conditions in addition to the aforesaid Highway Network Contribution.

81. The issue of wildlife impacts has been addressed through the appellant's Bat Surveys and Preliminary Ecological Appraisal and an appropriate planning condition. Concerns about tree removal would be dealt with by means of conditions in respect of tree protection and the provision of new soft landscaping.
82. Having regard to the submitted drainage strategy, I am satisfied that drainage and flood risk matters would be capable of being addressed through a planning condition.
83. Concerns in respect of the site going beyond the development plan housing allocations have been noted. However, the site lies within the designated settlement boundary where new residential development is acceptable in principle.
84. The matter of the impacts on infrastructure and services arising from the development is dealt with by means of the Council's Community Infrastructure Levy (CIL) requirements.
85. Concerns in respect of loss of view from, and devaluation of, neighbouring properties are not material considerations in the determination of this appeal.

Conditions

86. The Council has suggested a number of conditions, if the appeal is allowed. I have considered these in the light of the tests set out in Paragraph 57 of the Framework and the National Planning Practice Guidance (PPG) and imposed them where I consider them to be necessary and reasonable, incorporating amendments and deleting and/or amalgamating conditions for the sake of clarity and precision and to avoid duplication.
87. Some conditions require scheme pre-commencement submission and approval in the instances where such details need to be considered in the construction of the development, and therefore go to the heart of the planning permission.
88. In addition to the standard implementation condition (1), it is necessary to define the plans for certainty (2).
89. To protect the character and appearance of the area, conditions are necessary to ensure appropriate external materials (3), an appropriate hard and soft landscaping scheme (4) and restrictions on external lighting (5).
90. In the interests of highway safety and to protect the living conditions of neighbouring occupiers, it is necessary to ensure that construction of the development takes place in accordance with an approved Construction and Environmental Management Plan (CEMP) (6). To ensure sustainable waste management and recycling, a condition is necessary to ensure the provision of on-site refuse and recycling storage facilities for the development (7).
91. It would be in the interests of highway safety to ensure the provision of appropriate on-site car parking and turning space (8). To ensure that the development provides opportunities for sustainable transport modes, a

condition is necessary to ensure that the development provides for secure cycle parking facilities (9).

92. Conditions are necessary in the interests of protecting and enhancing biodiversity (10) and (11). Condition 5 regarding external lighting design would also serve these interests.
93. To ensure appropriate living conditions for neighbouring occupiers and future occupiers of the development and to protect the character and appearance of the area, a condition is required to remove specified permitted development rights (12).
94. To ensure that the development does not increase flood risk on or off-site and to ensure that nitrates associated with surface water do not enter the SPA, a condition is necessary to ensure the implementation and subsequent management and maintenance of a Sustainable Drainage Scheme (SuDS) (13).

Conclusion

95. For the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: C101C, C102G, P5A, P6, P101C, P110C, P111B, P112B, P113C, P114C, P115C, P116, P117, P118, P119, P120, P121, P122, P123, P124, P130, P131 and P132.
3. No development shall take place above slab level until a full and detailed schedule of all materials and finishes to be used in the construction of the external surfaces of the buildings hereby permitted has been submitted to and approved in writing by the local planning authority.

The development hereby permitted shall be carried out and thereafter maintained in accordance with the approved materials details.

4. No development shall take place above slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include: the alignment, height and full architectural details of all boundary treatments (front, rear and side) walls, gates and fences and other means of enclosure; the soft landscaping and planting, which shall specify species, plant sizes, spacing and numbers of trees/shrubs to be planted; details of any hard surfacing, to include materials; and an implementation programme.

The approved hard and soft landscaping shall be carried out in accordance with the approved details and implementation programme. All hard landscaping and means of enclosure shall be completed prior to first occupation of the development hereby permitted. The soft landscaping scheme shall be carried out in the first planting and seeding seasons following the first occupation of the development. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of similar size, species and number as those originally approved.

5. No external lighting shall be installed within the site of the development hereby permitted unless details of such are first submitted to and approved in writing by the local planning authority. The lighting details shall include the proposed location, level of luminance and measures to prevent light spill.

The lighting shall be installed in accordance with the approved details and thereafter maintained.

6. Prior to the commencement of the development hereby permitted, a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to throughout the entire construction period and shall provide details of the following:

- a) The anticipated number, frequency and types of vehicles used during construction;
- b) The provision for the parking of vehicles by contractors, site operatives and visitors;
- c) The loading and unloading of plant, materials and waste;
- d) The storage of plant and materials used in the construction of the development;
- e) The erection and maintenance of security hoarding;
- f) The provision of road sweepers and/or wheel washing facilities;
- g) Measures to control the emission of noise, dust and dirt during construction;
- h) External lighting to be used during construction;
- i) Storage of fuel and chemicals; and
- j) Waste management.

7. No development shall take place above slab level until details of refuse and recycling storage facilities have been submitted to and approved in writing by the local planning authority.

The approved refuse and recycling storage facilities shall be provided before the first occupation of the development hereby permitted and shall thereafter be permanently retained.

8. The development hereby permitted shall not be occupied until vehicle parking, garaging and turning spaces have been constructed in accordance with the approved plans Refs PO1C, P130 and P131.

The parking, garaging and turning facilities for the development shall thereafter be retained as such at all times and shall not be used for any other purpose other than for the parking and turning of vehicles and shall remain free of obstruction for such use at all times.

9. No dwelling hereby permitted shall be occupied until cycle storage provision in accordance with approved plan Ref P132 has been provided for that dwelling. The approved cycle storage shall thereafter be permanently retained.

10. No development shall take place, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works until a Wildlife Protection and Enhancement Scheme has been submitted to and approved in writing by the local planning authority. This shall include, but not be limited to:

- a) Details of mitigation measures in respect of the existing on-site bat roost; and
- b) The inclusion of bat, bird and hedgehog boxes within the development.

The development shall be carried out in accordance with the approved details.

11. The development hereby permitted shall be carried out in accordance with the tree protection measures within the Arboricultural Impact Assessment and Method Statement by James Bell, Ref:jwmb/rpt1/birdham/AIAAMS, dated 14 July 2022.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by Classes A-E of Part 1 of Schedule 2 of the Order shall be carried out.

13. No development shall take place until full details of a Sustainable Drainage Scheme (Suds) have been submitted to and approved in writing by the local planning authority. The Suds 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 Suds Manual produced by CIRIA. Winter groundwater monitoring, to establish the highest annual ground water levels, and winter percolation testing, to BRE 365 or a similar approved method, will be required to support the design of any infiltration drainage. The Suds scheme shall include:

- a) A detailed design;
- b) A timetable for implementation;

- c) Demonstration of the technical feasibility/viability of the drainage system through the use of Suds to manage the flood risk to the site and elsewhere;
- d) The measures taken to manage the water quality for the life-time of the development hereby permitted;
- e) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The Suds drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details. No dwelling hereby approved shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the approved scheme.

*****End of Conditions*****