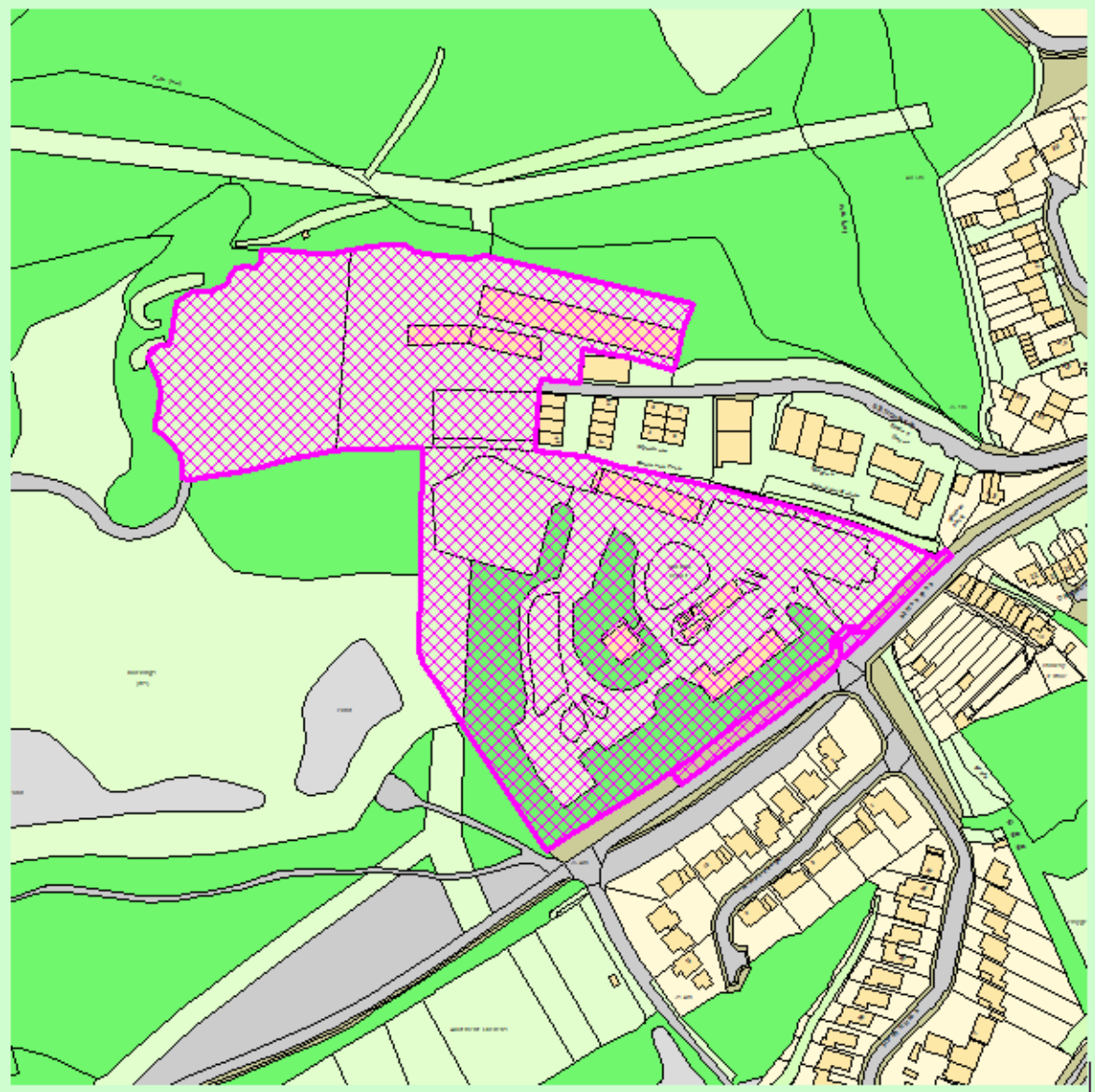


Report to	Planning Committee
Date	8 September 2022
By	Director of Planning
Application Number	SDNP/21/03448/FUL
Applicant	Mr Alistair Harris (Metis Homes)
Application	Construction of 69 dwellings with associated access, parking and landscaping following demolition of the existing buildings.
Address	Council Depot, Bepton Road, Midhurst, West Sussex, GU29 9QX

Recommendation:

- I. That planning permission be granted subject to the conditions set out in Section 9 of this report and the completion of a Legal Agreement, the final form of which is delegated to the Director of Planning, to secure:**
 - i. 25 affordable homes of the following tenure and mix:**
 - 12 affordable rent (6 x 1-bed flats and 6 x 2-bed flats)**
 - 13 shared ownership (11 x 2-bed houses and 2 x 3-bed houses)**
 - ii. A £100,000 contribution to deliver access / path improvements on Midhurst Common**
 - iii. A £12,660 contribution to deliver ecological compensation measures on Midhurst Common**
 - iv. The provision of a public footpath / cycle route through the site (safeguarding a route for the potential future non-motorised travel route along the former Petersfield to Pulborough railway line)**
 - v. The provision of an Estate Management Company with associated estate management plans (including lighting, landscape, ecology and drainage)**
 - vi. Highway works associated with improved access from Bepton Road and to the retained Household Waste Recycling Site**
 - vii. Travel Plan and transport mitigation measures**
 - viii. The provision of a residents and tenants information pack (to include information about responsibilities around Midhurst Common and ecological mitigation measures on-site)**
 - 2. That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the Legal Agreement is not completed or sufficient progress has not been made within three months of the 8 September 2022 Planning Committee meeting.**
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Site Location Plan



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Executive Summary

This application relates to the construction of 69 dwellings (with associated landscaping and car parking) on the former Brickworks and current West Sussex County Council Depot site on Bepton Road, Midhurst.

This application is seeking to address the previous reasons for refusal for a 75 dwelling scheme (refused in March 2021).

The key considerations for this application are:-

- the site is allocated for redevelopment to provide 65-90 dwellings under Policy SD78 of the South Downs Local Plan;
- the 36% affordable housing being proposed, based on a submitted viability appraisal. This has been scrutinised by the SDNPA's surveyors (Bruton Knowles) who agree with the conclusions;
- the proposal's design (including the impact on eco-systems services, landscape character, tranquillity, dark night skies and compliance with the Development Brief), and

- whether the scheme would have a likely significant effect upon the SPA and SACs, which needs to be mitigated for.

The proposals accord with the Purposes and Duty of the South Downs National Park and the South Downs Partnership Management Plan. The proposal also accords with the key policies relevant to this application, SD4, SD5, SD9, SD10, SD28 and SD78 of the South Downs Local Plan and the 'Brickworks and Former Depot Site, Midhurst, Development Brief' (approved in November 2018).

The application is placed before committee due to the strategic allocation.

I. Site Description

- I.1 The site is located at the western edge of, but within, the settlement boundary of Midhurst. The site's southern boundary adjoins Bepton Road. The frontage to Bepton Road is also heavily screened by mature trees and other vegetation.
- I.2 Midhurst Common (a Local Wildlife Site), and former sand quarry, surrounds the site on its northern and western boundaries and to the east is the Wyndham Business Park / Industrial Estate.
- I.3 The site consists of two parcels of land. The southern parcel is currently used by West Sussex County Council as a depot for a collection of local authority operations within partially derelict sheds and other buildings set in amongst a number of trees. Approximately 0.2ha of this parcel of land, immediately adjacent to Bepton Road (to the east of the site's access point), is used as a public household waste recycling centre (HWRC). Access to this part of the site is from Bepton Road.
- I.4 The northern parcel of land was previously the Midhurst Brickworks, famed for producing the 'Midhurst White'. The brickworks closed in 1985, some of the original structures remain in situ (these are referred to further in this report). Historically, this part of the site also included the Petersfield to Pulborough railway line. This area is currently occupied by a company that stores and processes aggregates. There is a secondary, gated, access to this part of the site via Station Road, through the adjacent Wyndham Business Park / Industrial Estate.
- I.5 The site is covered by a Tree Preservation Order (confirmed in 2018) which protects seven (7) individual trees and seven (7) groups of trees within the site.
- I.6 The site is within 6.5km of the Singleton and Cocking Tunnel Special Area of Conservation and 12km of the Ebernoe Common Special Area of Conservation so has the potential to impact upon bats.
- I.7 The site is also within the Sussex North Water Supply Zone so has the potential to impact upon the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar due to water resource issues.
- I.8 The site is allocated by Policy SD78 for a residential-led development of approximately 65-90 dwellings and a Development Brief for the site was approved by the Authority in November 2018.

2. Relevant Planning History

- 2.1 SDNP/20/05059/FUL - Erection of 75 new homes (with 24% affordable) with associated access, parking and landscaping. Refused planning permission on 11 March 2021 under delegated authority. The reasons for refusal were:
 - I. The proposed development of the northern part of the site, particularly the cumulative effect of the proposed layout, siting, scale, mass, form, architectural detailing, car parking and urban design, would result in an overdevelopment of this part of the site and not represent a high quality landscape-led design. The proposed development would be visually harmful, does not positively contribute to the character and appearance of the area and would fail to promote or enhance local distinctiveness and a sense of place. Therefore, the proposal would not conserve and enhance the landscape character and the special qualities of the National Park, including its relative tranquillity and dark night skies. For these reasons, the proposals are contrary to policies SD1, SD4, SD5, SD7,

- SD8, SD21, SD22, SD45, SD46 and SD78 of the South Downs Local Plan 2014-2033, the National Planning Policy Framework 2019, the First Purpose of a National Park, the English National Parks and the Broads: UK Government Vision and Circular 2010, and policies 1, 3, 29 and 31 of the South Downs Partnership Management Plan 2020-2025.
2. The proposal makes inadequate provision for affordable housing contrary to policy SD28 of the South Downs Local Plan 2014-2033 which seeks to maximise the delivery of affordable housing to meet local housing need. It has not been satisfactorily demonstrated that there are exceptional circumstances, on financial viability grounds, to justify that the proposal cannot achieve a greater provision of affordable housing than as proposed. The proposal is therefore contrary to policy SD28 of the South Downs Local Plan 2014-2033, the National Planning Policy Framework, the English National Parks and the Broads: UK Government Vision and Circular 2010 and policy 50 of the South Downs Partnership Management Plan 2020-2025.
 3. The proposal does not meet the Authority's required minimum standards in respect of building energy efficiency (in terms of a 19% reduction in CO₂ emissions than allowed by current 2013 Building Regulations and a further 20% reduction through the use of on-site low or zero carbon energy generation) nor does it satisfactorily demonstrate that the proposal will mitigate against, and adapt to, climate change. It has not been satisfactorily demonstrated that there are exceptional circumstances, on technical feasibility or financial viability grounds, to justify that the proposal cannot achieve the minimum standards in terms of building energy efficiency. Therefore, the proposal is contrary to policies SD45 and SD48 of the South Downs Local Plan 2014-2033 and the Sustainable Construction Supplementary Planning Document (2020), the National Planning Policy Framework, and policies 1 and 25 of the South Downs National Park Partnership Management Plan 2020-2025.
 4. It has not been satisfactorily demonstrated that the proposed development would have an overall positive impact on the ability of the natural environment to contribute to goods and services or provide opportunities to enhance ecosystem services, mitigate the sensitive interface with Midhurst Common or provide positive enhancements to wildlife habitats. The proposal is, therefore, contrary to policies SD2, SD9, SD45 and SD78 of the South Downs Local Plan 2014-2033, policy 4 of the South Downs National Park Partnership Management Plan 2020-2025, the National Planning Policy Framework and the First Purpose of a National Park and the English National Parks and the Broads: UK Government Vision and Circular 2010.
 5. Insufficient information has been submitted to satisfactorily demonstrate that the proposed development would not have a harmful impact upon protected species and that satisfactory mitigation can be achieved. Consequently, a likely significant effect would occur upon the designated areas of Singleton & Cocking Tunnels Special Area of Conservation and Midhurst Common (a Local Wildlife Site). The proposal is, therefore, contrary to policies SD9, SD10, SD45 and SD78 of the South Downs Local Plan 2014-2033, policies 4 and 5 of the South Downs National Park Partnership Management Plan 2020-2025, the National Planning Policy Framework and the First Purpose of a National Park and the English National Parks and the Broads: UK Government Vision and Circular 2010.
 6. It has not been satisfactorily demonstrated that the proposal would not have a harmful impact on the culverted watercourse on the site in terms of flood risk and drainage. The proposal does not demonstrate that it has taken opportunities to reduce surface water run-off or that the SuDs proposed cannot enhance biodiversity, public amenity spaces or provide other benefits. Therefore, the proposal is contrary to policies SD49, SD50 and SD78 of the South Downs Local Plan 2014-2033, the National Planning Policy Framework and policies 23 and 25 of the South Downs National Park Partnership Management Plan 2020-2025.
 7. The proposal does not make adequate provision for on-site children / teen play space, contrary to policy SD46 of the South Downs Local Plan 2014-2033, the National Planning

Policy Framework and policy 29 of the South Downs National Park Partnership Management Plan 2020-2025.

8. In the absence of a completed Section 106 legal agreement, securing:
- appropriate mitigation measures for Midhurst Common;
 - a public right of way through the site (connecting to Midhurst Common), and
 - safeguarding the potential future non-motorised travel route along the approximate line of the former Petersfield to Pulborough railway line.

the proposal fails to mitigate its direct impacts and therefore is contrary to policies SD9, SD20, SD45, SD46 and SD78 of the South Downs Local Plan 2014-2033, the National Planning Policy Framework and the Purposes of a National Park.

3. Proposal

- 3.1 This application is seeking permission for 69 dwellings following the demolition of the existing industrial buildings / sheds (with the exception of one shed, referred to below) and is a resubmission following the refusal of the previous scheme (reference SDNP/20/05059/FUL).
- 3.2 This proposal also shows the existing, West Sussex County Council operated, Household Waste Recycling Centre (HWRC) being retained on site.
- 3.3 The access to this site is proposed to be from Bepton Road, with a dedicated right hand turn lane within the site to serve the retained HWRC.
- 3.4 The proposed 69 dwellings are made up of 57 houses and 12 flats. The proposed mix of housing is:
- 20 x 2 bed houses;
 - 29 x 3 bed houses, and
 - 8 x 4 bed houses.
- 3.5 The proposed flats are within a single block. The proposed mix of flats is:
- 6 x 1 bed flats, and
 - 6 x 2 bed flats.
- 3.6 The applicant is offering 25 dwellings (36%) for affordable housing. The size and tenure being offered is set out below:
- All 12 flats (6 x 1 bed and 6 x 2 bed) for affordable rent, and
 - 13 houses (11 x 2 bed and 2 x 3 bed) for shared ownership.
- 3.7 All the proposed units meet the Nationally Described Space Standards (i.e. minimum space standards).
- 3.8 Under the proposals, the site is divided into two character areas. The southern part of the site is characterised by houses set within a wooded common, with irregular streets and courtyards. This part of the site contains, and retains, a substantial amount of the tree's protected by the Tree Preservation Order and contains the main public space of the scheme.
- 3.9 The architectural style of the buildings in this location follows the key design principles that characterises the historic core of Midhurst. The majority of the new buildings (22 houses) are 2-storeys in height with a relatively small number (8) of the proposed houses being two and half-storey.
- 3.10 The northern part of the site is characterised by its former industrial use (both the railway line and brickworks) and the layout and form of the new dwellings in this area is more linear and regular. The architectural style of the majority of the buildings in this location follows a more industrial aesthetic, with some saw-tooth roof forms and 'crittal'-style windows.

- 3.11 The 27 houses in this area are two-storey in height and the block of flats is 3-storeys. The proposal also includes retaining part of one of the historic open sheds, adjacent to the boundary with the Wyndham Business Park / Industrial Estate, to provide a covered parking area.
- 3.12 It is proposed that the scheme will achieve an approximate site average of 17% reduction in regulated carbon dioxide (CO₂) emissions through a fabric first approach and with the inclusion of PV panels it will reduce to a site average of 40.5%. In addition, it is proposed to deliver 8 homes (Units 58-65) to Passive House standards. It is also proposed that the scheme will limit water consumption to 84.7 litres per person per day. The issues of sustainable construction and water usage (and water neutrality) are addressed further within the Planning Assessment section of this report.
- 3.13 The proposal does include 10% green roofs, those green roofs are located on the single-storey car barns and ancillary structures.
- 3.14 The proposal does include the retention of 6 of the 7 individual TPO'd trees, however T4 (Oak Tree) would be removed. With regards to the groups of trees protected by the TPO (together with other unprotected trees on site) approximately 75 – 100 trees will be removed. The majority are located within A2 and A3 (on the boundary with the Industrial Estate and within A6 (including a small cluster to be removed on the boundary with Bepton Road, immediately adjacent the proposed Units in the south west corner). The exact number of trees to be removed will be considered prior to the commencement of the development as set out in Condition 5. As part of the overall landscape strategy a substantial number (approximately 350) of existing trees will be retained (for example along the frontage of Bepton Road and the eastern boundary / central part of the southern area of the site) and other measures include the planting of 147 new trees and heathland / shrub planting and other ecological enhancements.
- 3.15 The application is also supported by a number of ecological reports. Site survey work identified the presence of commuting and foraging bats. There were no recordings of bats emerging or roosting within any existing buildings or structures. Survey work also identified an exceptional population of common lizard and slow worms and single recordings of both adder and grass snake (therefore, the site is deemed to be of 'county' level importance for reptiles), the presence of an active outlier Badger sett and a dormouse nest.
- 3.16 Mitigation measures include the creation of a 'dark corridor' on the northern boundary, a sensitively designed lighting scheme to avoid upward light spill, a diverse collection of native planting, installation of bird and bat boxes and reptile translocation and other enhancement works. This also includes the creation of 250sqm of off-site (within the adjacent Midhurst Common) compensatory habitats for dormice and additional shelter and foraging opportunities for reptiles.
- 3.17 The reports do acknowledge that the outlier Badger sett will need to be closed permanently but in accordance with Natural England guidance no compensation would be required.
- 3.18 The application includes a completed DEFRA Biodiversity Net Gain Metric, which states the scheme is providing a 42.5% net gain in area-based habitats and 100% net gain in hedgerow habitat.
- 3.19 In total 160 car parking spaces are proposed, the breakdown of the proposed spaces is as follows:
- 140 allocated spaces which includes parking courtyards, communal and private car barns, and car ports (approx. 2 spaces per dwelling), and
 - 20 unallocated / visitor spaces, 8 of which are proposed as disabled parking.
- 3.20 The proposal refers to the provision of electric vehicle charging points for all properties with private on-plot parking and for those homes with courtyard parking, one dedicated space for each home will have a charging point installed. For communal parking areas one electric vehicle charging point would be provided for every ten car parking spaces.

- 3.21 It is proposed that cycle storage will be provided in sheds in back gardens for the individual houses and for the blocks of flats via a single-storey extension to the blocks (which will contain two-tier cycle stands). The proposal provides sufficient space for two cycles for every 3 and 4 bed house and one cycle for the 2 bed houses. Each flat would have one cycle storage space.
- 3.22 The proposal also includes three new footpath connections to the adjacent Midhurst Common and woodland to the north from within the site. The submitted landscaping plan shows bins and signs (with details to be agreed with the Friends of Midhurst Common) at each of those access points and a gate for the southern-most proposed access point. It is proposed that one of the internal paths (which connects onto Midhurst Common) is made publicly available for pedestrians and cyclists, the line of this path closely follows the safeguarded route for the potential future non-motorised travel route along the former line of the Petersfield to Pulborough railway line.
- 3.23 Whilst this proposal does not include access through the site to provide a secondary access to and from Station Road (through the neighbouring industrial estate – which is in separate ownership), the gated access is not removed (and can still be used for emergencies) should in the future the neighbouring land owner agree to the opening up of this route to the wider public.
- 3.24 The scheme has also been subject to a number of amendments, including the increase in the affordable housing offer, significant design amendments (including a reduction in the overall number of units to 69), and changes and further information in relation to sustainability and highway issues.

4. Consultations

- 4.1 The consultee responses below summarise the latest comments received (i.e. they include subsequent comments received following the submission of amended plans and information).
- 4.2 **Archaeology:** No objection, subject to a condition securing the recording of the industrial structures before they are removed (see Condition 26).
- 4.3 **Design Officer** – Neutral. There are some positive aspects and generally supportive of the building design and layout, and the proposal meets most, if not all the requirements of Policy SD48 and the Sustainable Construction SPD. Concerns still remain around proposed materials (in buildings and public realm), the nature of a couple of the courtyard spaces in the southern character area and the car parking street in the northern character area (i.e. dominance of vehicles) and clarification of how the SuDs link up.
- 4.4 **Drainage Engineer (CDC)** – No objection subject to conditions securing the details of the drainage / SuDs measures (see Condition 19 and obligations listed in paragraph 9.2).
- 4.5 **Ecology** – Following the submission of amendments (including confirmation of the provision of compensatory measures on Midhurst Common), no objection subject to conditions and a legal agreement securing the mitigation and compensatory measures (see Conditions 4, 6 - 9, 13 – 15, 19 and obligations listed in paragraph 9.2).
- 4.6 **Environmental Health (CDC)** – No objection subject to securing the details and mitigation measures in relation to land contamination, noise, air quality and lighting (see Conditions 4, 6, 8 – 11 and 15 - 18).
- 4.7 **Fire and Rescue Service (WSCC)** - Advises that the development should show the proposed location of required fire hydrants and ensure their connection to a water supply which is appropriate in terms of pressure and volume for the purposes of firefighting (see Conditions 6 and 8).
- 4.8 **Landscape Officer** – Objection due to the loss of TPO'd trees. Concerns are also still raised that the northern part of the site does not conserve or enhance the existing character due to the schemes failure to respond to ecological sensitivities and the overall design is too domestic in scale to truly reflect the industrial character the Development brief supports. The soft landscaping does not contribute to the character of restoration to the heathland and the net gains rely upon uncharacteristic linear habitats (hedgerows). Further

clarification is required around the proposed drainage and SuDs features to ensure they are workable and deliverable. To overcome these concerns, conditions are required to integrate the issues for example the SuDs design and function should be integrated with ecology and landscape to ensure design is holistic and delivers multiple benefits.

- 4.9 **Lead Local Flood Authority (WSCC)** – The site is at low risk for surface water flooding and there are no records of historic surface water flooding within the site (albeit Railway Terrace, to the south east of the site, suffered surface water flooding in June 2012) however it is at high risk from groundwater flooding. The application proposes SuDs and the management and maintenance of those SuDs needs to be submitted to and approved in writing by the LPA (see Condition 19 and obligations listed in paragraph 9.2).
- 4.10 **Local Highway Authority (WSCC)** – No objection subject to conditions and following further amendments and information, WSCC have confirmed there is no longer a requirement to implement a booking system for the retained HWRC (see Conditions 4, 6, 8, 22 – 25 and obligations listed in paragraph 9.2).
- 4.11 **Local Housing Authority (CDC)** – Objection as scheme fails to provide 50% affordable units, the proposed housing mix is not line with Policy SD27 (with too many larger sized units) and the affordable housing should be pepper potted through the scheme as to ensure no more than 10 affordable units are clustered together (the current proposal has a cluster of 20 and then 5).
- 4.12 **Midhurst Town Council** – Support. Pleased to see that concerns over the entrance to the site has been addressed, endorses the greater availability of vehicle charging points and the improvement in the Passive House requirements, finds the redesign and relocation of the housing in the northern sector acceptable.

However, they continue to question the ‘inclusion of a substandard and rusty industrial shed as part of the development’, instead of more housing, or as originally suggested, employment use. The Council also request the addition of a children’s play park and that a suitable long term management plan is included in the conditions to ensure the care and maintenance of the green spaces (including sedum roofs).

- 4.13 **Natural England** – referred to the Sussex-Bat-SAC-Protocol to assess any impacts of the proposal on the Mens SAC, Ebernoe Common SAC and Singleton and Cocking Railway Tunnels SAC. No comments have been received regarding the water neutrality issue.
- 4.14 **Public Rights of Way (WSCC)**: No objection.
- 4.15 **Southern Water** – No objection, investigations show that Southern Water can facilitate foul sewerage disposal and water supply to service the proposed development (see Condition 19 and obligations listed in paragraph 9.2).

5. Representations

- 5.1 7 objections (including from Bepton Parish Council and the Midhurst Society) and 2 neutral representations (including from the Friends of Midhurst Common) have been received. A summary of the comments is set out below (note – a number of these comments were received before amendments were made to the scheme, for example the clarification regarding the number of EV charging points and revised sustainability information):

5.2 Objections

- Number of new homes is excessive;
- Detrimental impact to local infrastructure (such as schools);
- The proposal should include more affordable homes;
- The proposal conflicts with the Local Housing Authority advice on affordable housing (i.e. provide more affordable units, provide an appropriate housing mix and spread them out across the site);
- Bepton Road is dangerous and the increase in traffic from this scheme will be detrimental to the local area in both capacity and highway safety terms;

- There is insufficient capacity in the junction with the site and Bepton Road and the proposal will conflict with the users of the HWRC;
- Detrimental impact to Midhurst Common and its habitats;
- The proposal should include a physical border / barrier between the scheme and the Common;
- The proposal goes not go far enough on sustainability, for example, the scheme should be providing alternatives to gas boilers;
- The proposal needs to provide electric vehicle charging points for all new units;
- Need assurances that there is sufficient water supply to serve the new homes;
- The design of the northern section is uncharacteristic and the roof forms will lead to maintenance issues, and
- The layout of the southern section results in houses that will be in deep shade due to the retained trees (leading to a lack of daylight and sunlight to those units and on-going maintenance issues and risk of Trees being cut back and removed).

5.3 Neutral

- Concerned about the ready access to the Common and likely detrimental impact to the Common. Access should only be from the three designated points shown on the plans (and those points should have signs and litter bins);
- No garden / household should have direct access to the Common;
- More survey work is required on possible Badger setts;
- Need to educate the new residents about the Common and their responsibilities to ensure this valuable resource is protected;
- The scheme should clearly demonstrate how the development will adapt to climate change;
- Occupiers should easily be able to use cycles on clear, safe routes, and
- EV charging points are needed.

6. **Planning Policy**

6.1 Relevant Sections of National Planning Policy Framework:

- Section 2 - Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 12 – Achieving well-designed places
- Section 15 - Conserving and enhancing the natural environment

6.2 Most relevant Policies of Adopted South Downs Local Plan (2014-2033) (a longer list of other relevant policies can be found in Appendix I)

- SD9: Biodiversity and Geodiversity
- SD10: International Sites
- SD27: Mix of Homes
- SD28: Affordable Homes
- Strategic Allocation Policy SD78: West Sussex County Council Depot and Former Brickworks Site, Midhurst

6.3 Other relevant policy documents (including SPDs and TANs)

- Habitat Regulations Assessments (HRAs) TAN
- Affordable Housing SPD
- Sustainable Construction SPD
- Brickworks and Former Depot Site, Midhurst, Development Brief
- Design Guide SPD

Brickworks and Former Depot Site, Midhurst, Development Brief

- 6.4 The Development Brief (produced by the Authority and adopted in November 2018) highlights the landscape sensitivities associated with the landscape character of the area and puts forward key design principles. In summary this includes:

Landscape Sensitivities

The site falls within the 'Rother Farmland and Heath Mosaic' landscape character area, which has the general characteristic of well-drained sandy, acidic soils which support a mix of nationally important heathland habitats including open heather heath, acid grassland, bracken, gorse, woody scrub, and oak-birch woodland; large areas of woodland plantation covering areas of former common land, and the settlement pattern is generally a high density of dispersed settlement comprising farmsteads of 18th-19th century origin and irregular small-scale agglomerations of common-edge settlement. The exception to the dispersed pattern is the medieval market town of Midhurst. Specific landscape sensitivities are provided in more detail within the brief and these have been taken into account in the determination of this application.

Key Design Principles

- The southern part of the site is appropriate for small groups of dwellings set amongst the clusters of existing trees, with larger built footprints where there is more open ground to the east. The central cluster of trees in this area provides an opportunity to create a focus for the development in the form of a communal amenity space;
- The northern and north-western parts of the site are appropriate for smaller footprints of development, either residential or other complementary uses. This is due to the sensitive nature of the existing heathy scrub and secondary woodland that has established itself in the western end of this area;
- Use characteristic open spaces throughout the site to reflect the area's history of open access and public space by creating a community with significant communal spaces (and thus less enclosure). Ensure that these are placed in areas of existing tranquillity in the site;
- Use landscape buffers and wildlife corridors to create separation between the proposed residential development and existing non-compatible uses such as industrial uses and the HWRC. Development blocks should be dual aspect and be orientated to maximise passive solar gain (making the most of free heating from the sun);
- The form and massing of the new development and new landscape features should draw inspiration from the edge of heathland and woodland setting, and take advantage of the rising land to the west and north. New development should reflect the traditional scale, form and massing of locally distinctive domestic architecture;
- A mix of two or two and a half storey terraces, semi-detached and detached dwellings is considered most appropriate for the areas of the site constrained by clusters of trees;
- Larger footprint development, such as apartments of up to three or three and a half storeys, would be more appropriate in the eastern part of the Depot site and on the Former Brickworks site;

- The reuse and/or integration of existing building materials (stone and coping stones) and the industrial archaeology (shed structures and railway rails) found on the site should be included in any proposed development where possible, and
- The choice of materials and colour palette should draw inspiration from the woodland and unique open heathland areas of the site. A limited palette of materials and a restrained colour scheme should be used to create visual interest and variety and care should be taken to ensure that the collective use of materials and colours sit in harmony with the landscape setting of the site.

6.5 Relevant Policies of the South Downs Management Plan (2020-2025)

- Policy 1
- Policy 3
- Policy 4
- Policy 5
- Policy 23
- Policy 25
- Policy 28
- Policy 37
- Policy 50

7. Planning Assessment

Principle of development

- 7.1 The application site is a strategic allocation (Policy SD78) allowing for redevelopment for 65 to 90 dwellings. Given the site's specific location within the settlement boundary, the fact that it is a previously developed site (i.e. a brownfield site), the proposal is relatively limited in scale and the lack of adverse impacts upon the purposes for which the National Park has been designated, the proposed development does not constitute major development for the purposes of paragraph 177 of the National Planning Policy Framework (NPPF) and Policy SD3.
- 7.2 Given the development plan allocation, which has substantial weight, the principle of the development is acceptable and therefore the proposal is in accordance Policies SD25 and SD78 in that respect.
- 7.3 Further consideration of the details of the application and its compliance with the details of Policy SD78, the Development Brief and other Local Plan policies are set out in the following paragraphs.

Affordable Housing and Housing Mix

- 7.4 During the determination of this application, including independent viability advice from the SDNPA's surveyors (which confirmed 50% was not viable but 36% would be) the proposed affordable housing increased from 24% to 36% (in the form of 12 flats and 13 houses). Therefore, the scheme complies with Policy SD28 and particular regard has been had to its brownfield status.
- 7.5 In terms of housing mix, the tables below set out the housing mix for both the market and affordable units and how that compares to the requirements of Policy SD27. Whilst it is acknowledged that the proposed mix does not precisely comply with Policy SD27, for reasons principally of viability but also deliverability (to make the location and mix of the units an attractive offer to a registered social provider), and design concerns (which necessitated further amendments to the form and layout of some of the units), in the planning balance the proposed housing mix and proposed distribution of the affordable housing units across the site is acceptable.

Proposed Market Housing Mix

Size of Unit	Total number of units	Total %	Policy SD27 requirement, total % by size of unit
1 bed unit	0	0%	At least 10%
2 bed unit	9	20%	At least 40%
3 bed unit	27	61%	At least 40%
4 bed unit	8	11%	Up to 10%
Total	44		

Proposed Affordable Housing Tenure

Size of Unit	Number of Affordable Rented	Number of Shared Ownership	Total % by size of unit	Policy SD27 requirement, total % by size of unit
1 bed unit	6	0	24%	35%* *1-bed affordable may be substituted with 2-bed
2 bed unit	6	11	68%	35%
3 bed unit	0	2	8%	25%
4 bed unit	0	0	0%	5%
Total	12	13		

Design

- 7.6 As set out in the paragraphs above, the site is allocated for development and the Brickworks and Former Depot Site, Midhurst, Development Brief was created to shape and guide the landscape-led approach to redeveloping this site. This revised application, together with further amendments sought, have largely overcome the previous reasons for refusal.
- 7.7 In summary, the proposal to create two distinct character areas, dividing the site north and south, is appropriate and consistent with the approach set out in the Development Brief.
- 7.8 The approach taken in the southern part of the site, being more reflective of pockets or clusters of development set in amongst woodland (and the retained protected trees) and the form being characteristic of those houses / courtyards found within and around Midhurst Town Centre is supported.
- 7.9 The layout has been informed by a thorough urban design study of Midhurst town centre (as set out in the submitted Design and Access Statement), buildings are arranged in organic clusters, creating a sequence of enclosed and opened spaces, weaved in and around the areas of mature woodland. This is likely to create a series of intimate places in this southern character area with some interesting variety in building shapes, heights and orientations, which is locally characteristic of Midhurst.
- 7.10 The changes to the layout, form and architectural detailing of the northern part of the site are also supported as they are more reflective of the lack of enclosure of Common Land and of the historical industrial character, such as linear block forms and the retention of one of the barrelled roof sheds. Concerns have been raised about the intensity of the layout and

potential conflicts with the ecological sensitives of this part of the site. It is acknowledged that the scheme is more domestic in scale than perhaps envisioned by the Development Brief. However, this is partly due to the ecological constraints and overcoming previous design concerns. The revised scheme is now at the lower end of the allocation (69 proposed, the allocation states 65-90), it does include a number of ecological mitigation and compensatory measures (agreed with the Authority's ecological adviser) and has the wider public benefit of providing 25 affordable housing units. Therefore, the scheme is supported and the concerns raised about the finer details and integration between the different disciplines (such as ecology and drainage) can be addressed through suitably worded conditions (see paragraph 9.3).

- 7.11 The scheme also now includes a variety of house types with different architectural features, such as different window forms and changes in materials and material detailing (and the detailing does differ between the two character areas). Again, this approach is generally supported and the final details can be resolved through the use of conditions (see Condition 9).
- 7.12 The parking arrangements are a mixture of on plot, car barn, shared parking court, car port with some on-street visitor car parking. This mix is considered appropriate. Although the amount of car parking to accommodate on site is quite large, the mix of approaches, the building clusters around courtyards and the use of car barns in particular, helps to mitigate the visual dominance of parked cars. Concerns have been raised about some of the parking and their proximity to the front of the proposed houses, however areas where this occurs are limited and no real harm results.
- 7.13 It is acknowledged that the proposal would result in 75-100 trees being removed. As highlighted above, however, approximately 350 existing trees are being retained, 147 new trees are to be planted and the scheme is proposing 42.5% net gain in area-based habitats and 100% net gain in hedgerow habitat. Whilst it is acknowledged that there will be harm due to the loss of the trees, the proposed landscaping measures are acceptable and this is a residential allocation with the proposed number of units now at the lower end of that allocation.
- 7.14 The proposal does also provide sufficient open space on site in the form which is reflective of the landscape character and seeks to retain the protected trees within the site and given the sites close proximity to existing play facilities at Carron Lane (which can be accessed from the site from the new northern path onto the rights of way), the scheme is also in accordance with Policy SD46.
- 7.15 In terms of Dark Night Skies, the scheme includes a lighting strategy and other mitigation measures as recommended by the applicant's ecologist. These are reasonable and acceptable and the final details can be secured through a suitably worded conditions (see Condition 15) and therefore the proposal accords with Policy SD8.

Ecology and Biodiversity, including Appropriate Assessment under the Habitat Regulations

- 7.16 The scheme in terms of the landscaping proposed is in itself acceptable. However, the current proposal has sought to address the previous reasons for refusal with regard to ecological impacts and through the submission of further information and amendments (including the provision off-site compensatory measures, as referred to in paragraph 3.16). The Authority's ecological adviser does not object to the scheme subject to all the mitigation and compensatory measures being secured through conditions and a legal agreement (Conditions 4, 6 - 9, 13 - 15, 19 and obligations listed in paragraph 9.2). Therefore, the scheme accords with Policies SD9, SD10, SD11 and SD45.
- 7.17 The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) places a duty on planning authorities when determining applications that may affect international sites to determine the potential for likely significant effects. Where proposals are likely (without mitigation) to have significant effects on international sites, the planning authority is required to undertake an appropriate assessment in order to ascertain that there would not be adverse impacts on the integrity of the international site, and whether the proposal demonstrates that impacts would be avoided or adequately mitigated

against. Accordingly, Policy SD9 requires that development likely to result in a significant effect upon an international habitats site is subject to an Appropriate Assessment pursuant to the requirements of the Habitats Regulations.

7.18 In the case of this proposal, an Appropriate Assessment is required for two reasons the potential significant effects on:

- Singleton and Cocking Tunnels Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), and
- Arun Valley Special area of Conservation (SAC), Special Protection Area (SPA) and Ramsar.

Singleton and Cocking Tunnels Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

7.19 The development proposals have been supported with a number of surveys and assessment reports. They conclude that whilst there is no direct impact or loss of the SACs, the site is used occasionally by individual foraging and commuting Barbastelle and Bechstein's bats. The bats were recorded within the northern part of the site along the tree-lined northern boundary (which is adjacent to the wooded areas of Midhurst Common). No bats were recorded within the southern part of the site and no bats were recorded roosting within any of the buildings on site.

7.20 The proposed development will result in a loss of 0.02 ha of other broadleaved woodland, 0.06 ha of other mixed woodland and 0.43 ha of mixed scrub from within the site. However, there are no recordings of these areas being used by commuting and foraging bats. Any vegetation to be removed from within the site does not provide suitability for roosting bats (and there are no recordings).

7.21 Therefore, the proposal could have an impact on functionally linked habitats, through the potential loss of habitat on the northern boundary of the site and light and noise disturbances to those functionally linked habitats.

7.22 The proposal includes the following avoidance and mitigation measures:

- The retention of the northern part of the site along the northern boundary, with the proposed development (the buildings, paths and car parking) set back from the northern boundary by between 26m at its widest to 7m at its narrowest. This area also includes a 'dark corridor' set at a minimum of 5m from the northern boundary. Lighting levels along the dark corridor will be below 1 lux with a maximum of 0.25 lux, and no lighting will be directed towards the dark corridor. Additional shrub and tree planting is also proposed in this area;
- Native Species Planting, the landscape plans for the development include a variety of native planting, including scrub planting and enhancement of retained woodland. The aim is to attract insects which in turn will help to enhance the site for foraging bats. Additional boundary and scrub planting across the site will also provide commuting habitat;
- Sensitive lighting scheme, permanent lighting on site is to be minimised in proximity to any areas of habitat to be retained and not directed at boundary habitats (to create dark corridors for commuting and foraging bats). The lighting design for the whole site aims to result in zero upward light spill and light spill of less than 1 lux onto retained and created boundary habitats and features. All the proposed lights on site are directional LED and downward facing (with predicted sky glow figure (ULR) of 0.00%), and
- The approval of a Construction Environment Management Plan (CEMP) prior to commencement of construction on the site to include the following avoidance measures:
 - Installation of hoarding / fencing to allow standoff zones with boundary habitats of at least 5m;
 - Signage on hoarding / fencing to indicate the location and importance of adjacent habitats;

- Construction works will start after sunrise and will finish before sunset;
 - Security lighting will not be directed at retained / boundary habitats; and
 - Security lighting must use sensors and be downward facing.
- 7.23 The applicant has also agreed to planning obligations (secured via a legal agreement) to ensure the long term management and maintenance of the proposed landscaping / ecological mitigation measures and lighting scheme, and the creation of a residents and tenants information pack to inform and educate the new residents of the sensitivities of the surrounding habitats and the SACs.
- 7.24 It is considered that the potential impacts identified have been sufficiently addressed by the avoidance and mitigation measures proposed.
- 7.25 There is a risk that without the mitigation set out above the loss and / or severance of existing commuting and foraging routes as a result of habitat loss (through direct loss or noise and lighting disturbances) could impact the integrity of the SACs. Therefore, it is considered reasonable that the proposed avoidance and mitigation measures are secured through suitably worded planning conditions (see Conditions 4 – 9 and 15) and planning obligations (secured via a legal agreement, see paragraph 9.2).
- Arun Valley Special area of Conservation (SAC), Special Protection Area (SPA) and Ramsar*
- 7.26 Supplementary advice on conserving and restoring site features for Arun Valley SAC / SPA / Ramsar (Arun Valley Sites) sets a number of targets for the site to support the 'Conservation Objectives' in order that the integrity of the sites is maintained or restored as appropriate, and ensure that the sites contribute to achieving the 'Favourable Conservation Status' of the 'Qualifying Features'.
- 7.27 These targets cover hydrology and flow, water quantity, area depth and water quality. The hydrology of the river Arun is the major factor affecting these targets and this in turn is affected by the abstraction near Pulborough for the supply of drinking water. Natural England have advised that their evidence shows that wildlife within the Arun Valley Sites is declining and some of the designated sites have been shown to be linked hydrologically to a layer of rocks from which water is currently being abstracted, or in other locations the hydrogeological link cannot be ruled out. Continued or increased levels of groundwater abstraction near Pulborough may reduce water quantity in the Arun Valley Sites and adversely affect water levels and flow within the protected sites (in combination with other plans and projects in the Sussex North Water Supply Zone (WSZ)). Without an alternative sustainable water supply or mitigation measures, it cannot be ruled out that the hydrology of the sites will be unable to maintain the types and extents of habitats required to maintain the 'Qualifying Features'.
- 7.28 The scheme proposes to redevelop a former brickworks / depot site (currently containing a number of industrial buildings) for 69 dwellings (ranging in size from 1 – 4 bedrooms). This will lead to an increase in water demand from the Sussex North WSZ. To determine the total water usage of the proposed development, it has been assumed the occupancy of the new dwellings will be in line with the national average occupancy rate (as recommended by Natural England) of 2.4 persons per dwelling. This would equate to 166 persons.
- 7.29 The submitted Water Neutrality Report confirms that across the site the new dwellings would achieve a site wide average of 84.7 litres per person per day (l/p/d) including an allowance of 5 litres per day for external water usage. This would be achieved through the installation of a range of water efficient fixings and, for the majority of the new dwellings, additional rain water harvesting (to supply downstairs toilets and washing machines).
- 7.30 As this is a previously developed site (a former brickworks and depot / industrial buildings used for a mix of employment uses), it is also considered reasonable to make an assessment on the historic water usage of the site to establish a water usage baseline position. Prior to 2010 a number of the buildings on the site were not leased and activity with associated water usage was relatively limited. From 2010 onwards the owner of the site advertised the site as being available for occupancy and the number of tenants increased accordingly.

However, in the years following 2014 when the site was promoted for re-development through the local plan process (and subsequently allocated) a number of the leases were not made available for renewal or made available on a short term basis only.

- 7.31 It is considered reasonable, in this case, to assess a representative period of water usage for a five year period (2010 – 2014) when all or some of the buildings were occupied. An average of this five year period has been used to inform the baseline position. This is because the use of the site for industrial / employment uses could continue and occupancy could increase (i.e. all the existing buildings could be fully occupied) as a 'fall-back' position (i.e. baseline position) should planning permission not be granted for a residential scheme. Therefore, the recent historical / baseline water usage is 2562.2 m³/year, which equates to 42.4 litres per person per day (l/p/d) (based on the average occupancy of 166 people).
- 7.32 Taking into account the 'baseline' water usage of the site and the proposed water efficiency measures, water neutrality cannot be achieved (84.7 l/p/d minus 42.4 l/p/d). Therefore, it is proposed that water usage can be offset through 'recharging the aquifer'.
- 7.33 Site Investigation works show that the site is situated on the Folkstone Formation bedrock of the Lower Greensand Group. This is the Lower Greensands aquifer, from which Southern Water abstracts its water.
- 7.34 The site currently has an impermeable surface area of 14,870m² (due to its historical use of industrial buildings and hardstanding). The proposed development would result in an impermeable surface area of 11,570m², due to the addition of gardens and permeable pavements / other surface materials. This amounts to an increase in permeable surface area of 28.5%. The rainwater that falls on this surface results in direct recharge to the aquifer, as it would on any greenfield site, whereas previously it would have runoff and been diverted.
- 7.35 The submitted Water Neutrality Report states that the amount of water that will recharge into the ground from rainfall that lands on permeable surfaces at the site can be calculated by considering the average rainfall and the infiltration capacities of the soil. The HR Wallingford Greenfield Runoff Rates Calculator shows that the Site has a SAAR of 880mm, and a soil SPR of 0.1. (Appendix D). The SAAR and SPR were checked using the FEH Catchment Explorer tool.
- 7.36 The 28.5% increase in land available to recharge will result in an additional 2613.6m³/yr of water entering the aquifer. This amounts to a contribution of 43.2 l/p/d (based on the average occupancy of 166 people).
- 7.37 With this additional off-setting measure, water neutrality could be achieved (84.7 l/p/d minus the 42.4 l/p/d for historic use and 43.2 l/p/d from recharging the aquifer).
- 7.38 It can therefore be concluded that, subject to securing the mitigation measures through suitably worded conditions (see Conditions 13 and 14), there would be no adverse effects on the integrity of the Arun Valley SAC / SPA / Ramsar site in terms of water abstraction arising from the development, either alone or in combination with other plan and projects.
- 7.39 In conclusion, and based on the evidence provided, Officers are satisfied there will be no significant effects or no adverse effects on the integrity of the SSSI, SACs, SPA and Ramsar sites due to provision of suitable avoidance and mitigation measures outlined above and accords with Policy SD10. The application is therefore acceptable in these regards.

Sustainable Construction

- 7.40 The sustainable construction strategy (including PV panels) would achieve a site wide carbon reduction of approximately 40% and also includes the provision of eight dwellings to be Passive House certified. The scheme also proposes EV charging points, green roofs and water efficiency measures (as highlighted above). All these measures are supported (and details would be secured through Conditions 10 and 13) and would accord with Policy SD48, the Sustainable Construction SPD and, in respect of electric vehicle charging, the Design Guide SPD.

Highways and Parking

- 7.41 As set out in the comments from the Local Highway Authority, and following the submission of further information and amended drawings, they have no objection. The proposal would not have a significant impact on the local highway network in terms of highway capacity nor highway safety grounds. In addition, adequate provision has been made for the retained Household Waste Recycling Centre (HWRC) through the provision of a dedicated right-hand turn lane within the site.
- 7.42 Improved pedestrian and cycle access is proposed in and around the site, including access to other existing public rights of way to the north, east and south-east of the site onto Midhurst Common. The pedestrian and cycle access routes within the scheme also include routes which follow the line of the historic railway and safeguard the delivery of Petersfield and Pulborough non-motorised user (NMU) route (and this will be secured through a Section 106 legal agreement). There is also the ability, should in the future the adjacent landowner permit, for the proposed pedestrian and cycle access to be connected to a pedestrian / cycle route through the neighbouring Business Park / Industrial Estate.
- 7.43 The scheme provides satisfactory provision for pedestrians and cycles by providing safe, legible routes within the site and appropriate connections to the neighbouring Midhurst Common and wider footpath / cycle network.
- 7.44 The proposed level of 160 car parking spaces for the residential units (an average figure of 2 spaces per dwelling) accords with the Authority's Parking SPD (which states the parking demand from the development would be 159 spaces) and is reasonable for the scale of the development when balanced against the wider landscape strategy.
- 7.45 In conclusion, the scheme does not present a highway risk nor does it have a detrimental impact to highway safety, adequate provision has been made for parking (including EV charging) and the scheme safeguards, and contributes to, the potential future NMU route along the line of the former Petersfield to Pulborough railway line. Therefore, it accords with Policies SD19, SD20, SD21 and SD22.

Flood Risk / Drainage and Water Supply

- 7.46 The scheme as submitted has addressed the previous concerns about the culverted water course and subject to securing the SuDs details through suitably worded conditions (see Condition 19), the scheme is acceptable in flood risk and drainage terms as it accords with Policies SD49 and SD50.
- 7.47 Some representations have expressed concerns about the current issues experienced relating to water supply / pressure within the wider area. The respective Water Company has stated they can facilitate water supply to service the proposed development.

Impacts on Local Amenities

- 7.48 Given the site's relatively self-contained location and surroundings, there are no impacts in terms of overlooking, loss of privacy and general noise and disturbance on wider residential amenities as a result of this proposal.
- 7.49 In addition, in terms of layout, siting and orientation of the proposed dwellings within the site, there would generally be no impacts in terms of overlooking or loss of privacy on the amenity of the new residents and following revisions to the design and landscaping proposed in the northern part of the site have overcome the previous reasons for refusal.
- 7.50 The application does acknowledge that new residents of the scheme could experience air quality and noise impacts from the existing HWRC and neighbouring Wyndham Business Park / Industrial Estate. However, it states that these potential impacts could be satisfactorily mitigated by the location and orientation of the new dwellings (for example, not having new dwellings right up to the boundary with the Industrial Estate and the location and orientation of windows), the inclusion of additional planting and the installation of 2m high close boarded fencing to the boundary with the HWRC and Industrial Estate. There is a separation between the proposed residential and Industrial Estate and subject to the details of the fencing and window details the Environmental Health Officer raised no objection.

Therefore, the proposal is acceptable and the details can be secured through suitably worded conditions (see Conditions 6 - 11).

- 7.51 In addition, the application is supported by a ground investigation (contamination) report which sets out a number of mitigation measures (such as method of foundations). This information is acceptable, and subject to suitably worded conditions requiring the precise details of the proposed mitigation and remediation measures (see Conditions 16-18) there will be no significant detrimental impacts to the occupiers of the proposed development.
- 7.52 This is a local plan allocation and no evidence was provided at the plan making stage that there would be adverse impacts to local infrastructure from this particular allocation. This scheme will be providing a payment under the Community Infrastructure Levy and that can be used for evidenced infrastructure needs.
- 7.53 Therefore, the scheme accords with Policies SD5, SD42, SD54 and SD55.

Non-designated heritage assets

- 7.54 There are no Listed Buildings on site nor is it within a Conservation Area, and as determined during the previously refused scheme, the existing buildings on site are not deemed to be 'non-designated heritage assets'.
- 7.55 The proposed development will result in the total demolition of nearly all of the existing buildings, with the exception of one of the open sheds on the northern part of the site. The intention is to retain part of the structure to provide a covered parking area.
- 7.56 As set out in the determination of the previously refused application, it is acknowledged that the site was used as 'Prisoner of War' camp during in WWII. However, the majority of the buildings on site do not pre-date the 1960s and the sheds on the northern part of the site, whilst offering a historic link to past use of the site, are not of special architectural or historic interest so as to secure their retention. However, the retention of part of one of the structures (as a covered parking area) is a benefit to the scheme as it reflects the sites industrial and cultural heritage.
- 7.57 Therefore, subject to a condition securing the detailed recording of the buildings before demolition (see Condition 26), the loss is acceptable and is outweighed by the wider public benefits of the scheme.

8. Conclusion

- 8.1 The design of the scheme and proposed mitigation and enhancement measures are appropriate to the landscape character of the area and accord with the principles in the Development Brief. The scheme will deliver affordable housing on a brownfield site. The proposal would not have a detrimental impact on the character of the local area and it would conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park subject to the conditions and planning obligations set out below.
- 8.2 Therefore, the proposal would accord with the relevant policies within the National Planning Policy Framework, the South Downs Local Plan, the South Downs National Park Partnership Management Plan 2020-2025 and the DEFRA Circular and purposes of the National Park.

9. Recommendation and Conditions

- 9.1 It is recommended to grant planning permission subject to the completion of Section 106 legal agreement (the final form of which is delegated to the Director of Planning) to secure the obligations set out in paragraph 9.2 and the conditions set out in paragraph 9.3. The particularly specific conditions to this proposal are Conditions 13 and 14. The remaining conditions would be considered broadly standard, albeit there are various specific references to the required ecological mitigation and enhancement measures and water neutrality measures, and are usual in terms of planning applications of this type.

9.2 **Planning Obligations**

- 25 affordable homes of the following tenure and mix:
 - 12 affordable rent (6 x 1-bed flats and 6 x 2-bed flats)
 - 13 shared ownership (11 x 2-bed houses and 2 x 3-bed houses)
- A £100,000 contribution to deliver access / path improvements on Midhurst Common
- A £12,660 contribution to deliver ecological compensation measures on Midhurst Common
- The provision of a public footpath / cycle route through the site (safeguarding a route for the potential future non-motorised travel route along the former Petersfield to Pulborough railway line)
- The provision of an Estate Management Company and associated estate management plans (including landscape, ecology and drainage)
- Highway works associated with improved access from Bepton Road and to the retained Household Waste Recycling Site
- Travel Plan and transport mitigation measures
- The provision of a residents and tenants information pack (to include information about responsibilities around Midhurst Common and ecological mitigation measures on-site)

9.3 **Planning Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended) and Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with the plans and documents listed below under the heading 'Plans and Documents referred to in consideration of this application', unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification). No buildings, structures, works or minor operations as defined within Part 1, classes A-H and Part 2, classes A-C of Schedule 2, shall be erected or undertaken on the site, unless permission is granted by the Local Planning Authority pursuant to an application for that purpose.

Reason: To enable the Local Planning Authority to regulate and control the development of land in the interests of the character and appearance of the area and to ensure retention of mitigation measures.

Construction

4. No development shall commence on site, including any site clearance work and any works of demolition, until a Construction Environmental Management Plan (CEMP), which shall include details of the following:
 - A programme for carrying out the works;
 - The parking of vehicles by site operatives and visitors;
 - The location of site office and welfare facilities, and sales office;
 - The timings of deliveries to site;
 - The method of access and routing of vehicles during construction;

- Loading and unloading of plant, materials and waste;
- Storage of plant and materials used in construction of the development;
- The erection and maintenance of security hoarding;
- phased programme of demolition and construction works;
- The anticipated number, frequency and types of vehicles used during construction;
- Measures to minimise the noise (including vibration) generated by the demolition / construction process to include hours of work, proposed method should foundation piling occur, the careful selection of plant and machinery and use of noise mitigation barriers;
- Measures to control the emission of dust and dirt during the demolition / construction process, including details of the dust management plan (in accordance with approved Air Quality Assessment Report produced by Hawkins Environmental dated June 2021);
- Tree protection works during construction;
- A scheme for recycling / disposing of waste resulting from demolition and construction works;
- Wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders where necessary);
- Measure to manage flood risk during construction;
- Any lighting, including location, height, type and direction and that lighting has been in accordance with the approved Ecological Reports and recommendations (see Condition 2);
- Other ecological mitigation measures, including method statements and measures to be adopted to avoid and manage impacts on the adjacent designated sites, protected species and other important habitats (in accordance with the approved Ecological Reports – see Condition 2), and
- Public engagement both prior to and during the construction works.

has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Environmental Management Plan shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the development in the interest of maintaining a safe and efficient highway network, in the interests of amenity, to conserve and enhance the landscape character and biodiversity of the area and to ensure no adverse impacts on designated sites and protected species.

Landscape / Design / Sustainable Construction

5. Prior to the commencement of the development, including any site clearance works, a final Tree Works / Removal and Protection Plan, indicating which trees are to be removed and / or pruned and how the remaining trees will be protected (during construction) shall be submitted to and approved in writing by the Local Planning Authority.

The development (including any construction works) hereby approved shall be carried out in full accordance with the agreed plan.

Reason: In the interests of amenity and the landscape character of the area.

6. Notwithstanding the details shown on the approved plans, no development above slab level shall be commenced until details of hard landscaping have been submitted to and

approved in writing by the Local Planning Authority. The plans shall include, but are not limited to the following:

- Treatment of external surfaces, paths, access ways, courtyards, seating areas, patio areas and parking spaces, including their appearance, depth and permeability, kerbs, edges, steps and ramps, spot levels, finished floor levels, upstands and demarcation;
- Drainage proposals including swales, rock rivers, attenuation basins, above ground rainwater harvesting solutions, gullys, surface covers, surface water channels, surface levels and falls and section plans (in accordance with the details required under Conditions 10, 13 and 19);
- Proposed and existing levels and falls, including any land / bank alterations (including section plans);
- Construction details, sections and treatment of external surfaces for the proposed retaining walls;
- Location, height and materials / construction technique for all boundary treatments and other built means of enclosure including any gates, bollards, railings and fencing (including noise mitigation measures as set out in the approved Acoustic Design Statement (Stage 2) dated 7 June 201, produced by Clarke Saunders);
- Location, height and design of any street furniture, including fire hydrants, bins, lighting, signage, water butts and other utilities equipment (in accordance with the details required under Conditions 2 and 15);
- Tree grilles and tree pit surfaces;
- Tree protection measures (in accordance with details required under Condition 5);
- Ecological Mitigation and Enhancement measures (in accordance with the approved Ecological Reports see Condition 2), and
- Water Neutrality measures (in accordance with the Water Neutrality Report dated May 2022 produced by Envireau Water).

Reason: In the interests of amenity and to conserve and enhance the landscape character.

7. Notwithstanding the details shown on the approved plans, no development above slab level shall be commenced until the final details of the soft landscaping, including provision of the green roofs, have been submitted to and approved in writing by the Local Planning Authority. The plans shall include, but are not limited to, the following:
 - Detailed schedule of plants, hedgerows and trees, noting species, sizes and proposed numbers / densities;
 - Tree protection measures (in accordance with details required under Condition 5);
 - Planting methods including soil depth and support proposals (underground guying etc);
 - Tree guards, staking and tree-pit construction information;
 - Ground preparation;
 - Surface dressing, where appropriate;
 - Grassing / turfing operations;
 - Seed mixes;
 - Written specification for soil amelioration including cultivations, planting methodology, establishment and maintenance operations;
 - Ecological Mitigation and Enhancement measures (in accordance with the approved Ecological Report – see Condition 2);

- Proposed and existing levels and falls;
- Any bunding or land alterations (including cross-sections), and
- Surface water drainage features and above ground rainwater harvesting solutions details (in accordance with the details required under Conditions 13 and 19).

Reason: In the interests of amenity and to conserve and enhance the landscape character.

8. All hard and soft landscape works shall be carried out in accordance with the approved details (in accordance with Conditions 6 and 7).

All hard landscaping shall also be carried out in accordance with the approved details prior to the development hereby permitted first being brought into use or in accordance with a programme to be agreed in writing by the Local Planning Authority.

All soft landscaping shall be carried out in accordance with the approved details and in the first planting and seeding season following when the development is first occupied. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by Local Planning Authority.

Reason: In the interests of amenity and to conserve and enhance the landscape character.

9. Notwithstanding the details shown on the approved plans, no development above slab level shall commence until a schedule of architectural details, materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes have been submitted to and approved in writing by the Local Planning Authority. Details to include, but not be limited to:

- External walls;
- Roofs;
- Photo voltaic panels (including fixtures and fittings);
- Eaves, fascias and soffits;
- Rainwater goods;
- Windows and openings including glazing, head, sill, lintel and depth of reveals (including noise mitigation measures in accordance with the approved Acoustic Design Statement (Stage 2) dated 7 June 201, produced by Clarke Saunders);
- Doors;
- Porches and loggias;
- Car Barns, and
- Ecological Mitigation and Enhancement measures (in accordance with the approved Ecological Reports – see Condition 2).

The development shall be carried out in accordance with the approved schedule and samples.

Reason: To safeguard the appearance of the development in the interest of conserving and enhancing the landscape character of the area and the quality of the development.

10. No development above slab level shall commence until a design stage sustainable construction report has been submitted to, and approved in writing by the Local Planning Authority. The design stage sustainable construction report shall include:

- Design stage SAP data and/or SBEM calculations;

- Design stage BRE water calculator;
- Likely product specifications;
- Sustainable material strategy.

The report shall demonstrate that the development will:

- Reduce site wide predicted CO₂ emissions by 40% compared with the maximum allowed by Part L of the 2013 Building Regulations;
- Evidence of the predicted water consumption of no more than 84.7 litres/person/day for new homes;
- Provides at least 10% green roofs (in accordance with the approved plans);
- Evidence demonstrating the noise mitigation measures to provide suitable internal conditions for the residential units in accordance with the approved Acoustic Design Statement (Stage 2) dated 7 June 201, produced by Clarke Saunders;
- Eight of the houses will be Passive House certified (in accordance with the approved Passive House Planning Package Analysis Report, dated 30 September 2021 produced by Beats Solutions).

Thereafter, the development shall be undertaken in full accordance with the agreed details.

Reason: To ensure the development demonstrates a high level of sustainable performance and contributes to the mitigation of, and adaptation to, predicted climate change.

11. Prior to the occupation of the fiftieth (50th) residential unit hereby approved to submit to the Local Planning Authority for written approval a post completion sustainable construction report. The report shall demonstrate that the development has complied with the details and requirements of Condition 10, which shall include Passive House Certification for eight of the houses.

The development shall be occupied in accordance with these agreed details and these details will hereafter be retained.

Reason: To ensure an acceptable level of sustainable performance to address mitigation of, and adaptation to, predicted climate change.

12. Notwithstanding the details shown on the approved plans, before the development hereby permitted is first brought into use, details of refuse and recycling storage facilities shall be submitted to and approved in writing by the Local Planning Authority.

The approved refuse and recycling storage facilities shall be implemented prior to the occupation of the development and thereafter retained.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials and to protect the character and amenity of the area.

Water Neutrality

13. Prior to development above slab level, precise details of the water efficiency measures and rainwater/greywater harvesting systems to be installed in the new development (to achieve the predicted water consumption of no more than 84.7 litres/person/day) in the form of a Water Neutrality Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority (such strategy shall be in accordance with the Water Neutrality Report, dated May 2022 produced by Envireau Water). The development shall thereafter be implemented in accordance with the agreed details.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SAC/SPA and Ramsar sites, in accordance with the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

14. Prior to the occupation of the fiftieth (50th) residential unit hereby approved, evidence shall be submitted to and approved in writing by the Local Planning Authority that the approved Water Neutrality Mitigation Strategy for the development has been implemented in full. The evidence shall include the specification of fittings and appliances used, photographic evidence of their installation, and completion of the as built Part G or BREEAM water calculator or equivalent to demonstrate the savings made. The installed measures shall be retained as such thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SAC/SPA and Ramsar sites, in accordance with the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

Lighting and Dark Night Skies

15. No development above slab level shall be commenced until a detailed external lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the approved Lighting Assessment dated 18 June 2021 produced by Tetra Tech and the mitigation and enhancement measures set out in the approved Ecological Reports (see Condition 2), details should specify the type and location of all external lighting to be installed throughout the site.

Thereafter, the lighting shall be retained in full accordance with the approved details.

Reason: In the interests of amenity and to protect the South Downs International Dark Skies Reserve and protected species.

Contaminated Land

16. Prior to the commencement of the development hereby permitted, a Contaminated Land Remediation Scheme shall be submitted to and approved in writing by the Local Planning Authority specifying how the remediation will be undertaken, what methods will be used and what is to be achieved and any ongoing monitoring to be undertaken. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. Thereafter, the approved remediation scheme shall be fully implemented in accordance with the approved details.

Reason: In the interests of amenity, to protect health and to ensure that risks from land contamination to neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

17. No dwelling hereby permitted whose curtilage falls partly or wholly within an area identified under Condition 16 as needing remediation for contamination shall be occupied until a verification report for the approved remediation scheme, as required by Condition 16, has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination.

18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 24 hours to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity, to protect health and to ensure that risks from land contamination to neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

Flood Risk and Drainage

19. Prior to the commencement of development hereby permitted, final details of the proposed means of foul and surface water disposal including on and / or off site works, shall be submitted to and approved in writing by the Local Planning Authority.

The final details shall be in accordance with the information contained within the approved Flood Risk Assessment and Drainage Strategy dated 24 June 2021, produced by Aqua Callidus Consulting, the additional letter from Aqua Callidus Consulting dated 14 October 2021 and the Landscape Strategy Plan (drawing reference 2062-TF-00-00-DR-L-1001 Revision P22) and shall include:

- Swales, Rock Rivers and Rainwater Gardens;
- Water butts;
- Green roofs;
- Attenuation basins;
- Other opportunities within the landscaped areas across the development to receive surface water, and
- The written approval of the Lead Local Flood Authority (or its agent) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on site.

The scheme shall subsequently be implemented in full accordance with the approved details.

Reason: To ensure satisfactory provision of foul and surface water drainage.

Utilities and Telecommunications

20. All new electricity and telephone lines shall be laid underground unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the landscape character of the site.

21. No development above slab level shall be commenced until details of how superfast broadband connection will be provided (or an equivalent alternative technology) and installed on an open access basis (including the location and appearance of any above ground equipment), have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with the approved details.

Reason: To provide satisfactory broadband connection for new residential units and to protect the landscape character of the area.

Highway Works

22. No development above slab level shall be commenced until detailed plans, including levels, sections, construction and landscaping details of the proposed highway improvement works (as indicated in drawing M.102/4 Revision E) have been submitted to and approved in writing by the Local Planning Authority. The highway improvement works shall be carried out in accordance with the approved details and the requirements of a Section 278 Agreement (under the provisions of the Highways Act 1980) prior to the first occupation of the development hereby permitted.

Reason: In interest of maintaining a safe and efficient highway network, in the interests of amenity and to conserve and enhance the landscape character.

Parking and Cycle Facilities

23. No development above slab level shall be commenced until details of the location and appearance of the Electric Vehicle Charging Points and associated infrastructure for the individual on-plot parking spaces and communal parking areas have been submitted to

and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To enable the provision of sustainable modes of transport.

24. Prior to the first occupation of the development hereby permitted the car parking, including electric vehicle charging points to be approved under Condition 23, shall be constructed in full accordance with the approved plans. The car parking spaces, together with the electric vehicle charging points, shall thereafter be retained for their designated purpose.

Reason: To ensure an adequate and satisfactory standard of parking provision.

25. Notwithstanding the details shown on the approved plans, before the development hereby permitted is first brought into use, details of cycle parking / storage for all the residential units and visitors shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking / storage details shall be implemented prior to the occupation of the development and thereafter retained.

Reason: To provide for alternative modes of transport.

Archaeology / Heritage

26. (a) Prior to the commencement of the development (including any demolition works) hereby permitted, a written scheme of historic building recording for existing buildings and structures on site shall be submitted to and approved by the Local Planning Authority. Thereafter, the recording of the buildings and structures shall be carried out in accordance with the approved written scheme. The scheme of recording shall accord with the general advice in the Historic England publication Understanding Historic Buildings, A Guide to Good Recording Practice (2016) and form a Level 2 record as defined in that document, and

(b) A copy of the final report will be submitted within three months of the survey work to the Local Planning Authority for approval. The material and paper archive required as part of the written scheme of investigation and the final report shall be deposited with Chichester District Council Historic Environment Record.

Reason: To ensure satisfactory arrangements are made for the recording of the industrial archaeology and cultural heritage of the site.

27. The barrel-vaulted structure located in the north-east part of the site (as shown on the Landscape Strategy Plan, drawing reference 2062-TF-00-00-DR-L-1001 Rev P22) shall be retained for the purposes of providing covered communal parking.

Reason: To conserve and enhance the landscape character and to ensure adequate parking facilities.

TIM SLANEY

Director of Planning

South Downs National Park Authority

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Appendices: Appendix I - Information concerning consideration of applications before committee

SDNPA Consultees: Legal Services, Development Manager

Background Documents

[All planning application plans, supporting documents, consultation and third party responses](#)

[South Downs National Park Partnership Management Plan](#)

[South Downs Local Plan 2019](#)

[Supplementary Planning Documents and Technical Advice Notes](#)

Information concerning consideration of applications before committee

Officers can confirm that the following have been taken into consideration when assessing the application:

National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage;
- To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

If there is a conflict between these two purposes, greater weight shall be given to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in a National Park, whereby conservation takes precedence. There is also a duty upon the National Park Authority to foster the economic and social wellbeing of the local community in pursuit of these purposes.

National Planning Policy Framework and the Vision & Circular 2010

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It was first published in 2012. Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010.

The Circular and NPPF confirm that National Parks have the highest status of protection in relation to landscape and scenic beauty. The NPPF states at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and that the conservation and enhancement of wildlife and cultural heritage are important considerations which should also be given great weight in National Parks. The scale and extent of development within the Parks should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Major Development

Paragraph 177 of the NPPF confirms that when considering applications for development within the National Parks, permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

For the purposes of Paragraph 177 whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

For the purposes of this application, assessment as to whether the development is defined as major for the purposes of Para 177 is undertaken in the Assessment Section of the main report.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

A screening opinion has concluded that for reasons of scale, use, character and design and environmental considerations associated with the site, the proposals are not EIA development within the meaning of the relevant 2017 legislation. Therefore, an EIA is not required.

The Conservation of Habitats and Species Regulations 2017

Following a screening of the proposals, it is considered that a likely significant effect upon a European designated site, either alone or in combination with other proposals, would occur given the scale, use, and location of what is proposed. Consequently, an Appropriate Assessment under a Habitats Regulation Assessment has been carried out and is set out in the Assessment section of the main report.

Relationship of the Development Plan to the NPPF and Circular 2010

The development plan policies listed within the reports have been assessed for their compliance with the NPPF and are considered compliant with it.

The South Downs National Park Partnership Management Plan 2020-2025

The Environment Act 1995 requires National Parks to produce a Management Plan setting out strategic management objectives to deliver the National Park Purposes and Duty. National Planning Policy Guidance (NPPG) states that Management Plans “contribute to setting the strategic context for development” and “are material considerations in making decisions on individual planning applications.” The South Downs Partnership Management Plan as amended for 2020-2025 on 19 December 2019, sets out a Vision, Outcomes, Policies and a Delivery Framework for the National Park over the next five years. Relevant Policies are listed in each report.

South Downs Local Plan

The South Downs Local Plan (SDLP) was adopted by the Authority in July 2019. All development plan policies are taken into account in determining planning applications, along with other material considerations.

The Planning and Compulsory Purchase Act 2004 S38 (6) confirms that “If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

Policies of the South Downs Local Plan which are of relevance to this application

- Core Policy SD1 - Sustainable Development
- Core Policy SD2 - Ecosystems Services
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD6 – Safeguarding Views
- Strategic Policy SD7 – Relative Tranquillity
- Strategic Policy SD8 – Dark Night Skies
- Strategic Policy SD9 – Biodiversity and Geodiversity
- Strategic Policy SD10 – International Sites
- Development Management Policy SD11 - Trees, Woodland and Hedgerows
- Strategic Policy SD12 - Historic Environment
- Strategic Policy SD17 – Protection of the Water Environment
- Strategic Policy SD19 - Transport and Accessibility
- Strategic Policy SD20 - Walking, Cycling and Equestrian Routes
- Strategic Policy SD21 – Public Realm, Highway Design and Public Art
- Strategic Policy SD22 – Parking Provision
- Strategic Policy SD25 - Development Strategy
- Strategic Policy SD26 – Supply of Homes
- Strategic Policy SD27 – Mix of Homes
- Strategic Policy SD28 - Affordable Homes
- Strategic Policy SD45 - Green Infrastructure
- Development Management SD46 – Provision and Protection of Open Space, Sport and Recreational Facilities and Burial Grounds / Cemeteries
- Strategic Policy SD48 - Climate Change and Sustainable Use of Resources

- Strategic Policy SD49 – Flood Risk Management
- Development Management Policy SD50 – Sustainable Drainage Systems
- Development Management Policy SD54 – Pollution and Air Quality
- Development Management Policy SD55 – Contaminated Land
- Strategic Site Policy SD78 – West Sussex County Council Depot and Former Brickworks Site, Midhurst

Policy Documents (SPDs and TANs) which are of relevance to this application

- Design Guide, Supplementary Planning Document – adopted July 2022
- Parking for Residential and Non-Residential Development Supplementary Planning Document – adopted April 2021
- Sustainable Construction Supplementary Planning Document – adopted August 2020
- Affordable Housing, Supplementary Planning Document - adopted July 2020
- The Brickworks and Former Depot Site, Midhurst, Development Brief, November 2018
- Dark Skies – technical advice note version 2, May 2022
- Biodiversity Net Gain – technical advice note, January 2022
- Habitats Regulations Assessment and Planning Applications – technical advice note, March 2021
- Ecosystems Services – technical advice note (non-householder)

Human Rights Implications

These planning applications have been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

Equality Act 2010

Due regard has been taken within this application of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

Crime and Disorder Implication

It is considered that the proposal does not raise any crime and disorder implications.