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D&M PLANNING Ltd
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3 ABINGWORTH NURSERIES, STORRINGTON ROAD, THAKEHAM, WEST SUSSEX
Our Ref. 131/26/MS

FINAL COMMENTS

Amendment of Condition 8 of previously approved application DC/18/2594 (alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as veterinary practice (class D1) and change of use of upper floor to two flats (use class C3)) relating to Use Classes.

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Associate Director

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CONTENTS

1. **Introduction**
2. **Planning Practise Guidance**
3. **The Council's Unreasonable Behaviour**
4. **Conclusion**

Appendices

1. Officer's Report DC/26/1153 – The Appeal Proposal
2. Committee Report DC/18/2594 – The Parent Permission
3. Committee Report DC/10/1314 – The Original Permission

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1.0 INTRODUCTION

1.1 This Statement contains an application in writing for a full award of appeal costs, as defined in paragraph 040 of the Planning Practice Guidance on Costs [ID 16-040-20140306]. The application for such accompanies an appeal made against the determination of an application by Horsham District Council under reference DC/26/1153.

1.2 The application proposed an amendment under Section 73 of the Town and Country Planning Act for the removal/variation of Condition 8 of DC/18/2594 ('the parent permission'). The parent permission granted consent for *Alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as veterinary practice (class D1) and change of use of upper floor to two flats (use class C3).*

1.3 The condition in question relates to a restriction on the uses that the premises could be attributed to the ground floor commercial units. The condition on the parent permission reading:

> *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the ground floor of the premises hereby permitted shall be used for a veterinary surgery and retail unit and for no other purposes whatsoever, (including those falling within Classes D1 or A1 as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express planning consent from the Local Planning Authority first being obtained.*

The reason for the condition being:

> *Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).*

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1.4 In determining the application subject of the appeal, the Council granted planning permission with a revised wording of Condition 8. The Condition of the appeal scheme now stating:

> Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) (or any order amending or revoking and/or reenacting these Orders):
>
> - The ground floor of the premises originally permitted as a veterinary surgery shall be used for Class E(a), (c), (e) or (g)(i) use only and for no other purposes whatsoever without express planning consent from the Local Planning Authority by way of application; and
>
> - The ground floor of the premises originally permitted as a retail unit shall be used for Class E(a) use only and no other purposes whatsoever without express written consent from the Local Planning Authority by way of application.

1.5 The reason given for the wording of the condition is given as:

> To ensure the village shop is retained in line with the original planning permission and as other changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).

1.6 The basis of the application for an award of costs is that the planning authority, Horsham District Council, acted unreasonably in applying this condition in both a procedural and substantive respect. This has left the Appellant with the options of either accepting the revised wording, appealing the determination or simply not implementing the Section 73. Given that an application was made in the first place the latter of these is evidently contrary to their intentions. The cost of bringing the appeal has been caused in a direct way by the Council's unreasonable conduct. That conduct falls within the type of behaviour listed within the NPPG on the subject of costs.

1.7 At this juncture we highlight that despite the wording of Policy DM3.1.a of the NPPF that the Council did not seek to engage with the Appellant or their representations to resolve any issues. The first correspondence after validation being the determination itself.

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1.8 For the purposes of the appeal the Appellant is requesting that it be considered under Part 2 of the written representations procedure, noting that there has been a material change in circumstances since the application was first made. That change in circumstances being the publication of the revised NPPF in August 2026. Further, given the nature of the appeal and the subject matters we consider it necessary that the Appellant be afforded the opportunity to respond in detail to the Council's published Officer's Report.

Structure of Application for Award of Costs

1.9 This statement will set out why it is considered that the Council acted unreasonably and that such behaviour has directly resulted in the bringing of this appeal and the associate costs. It will explore the relevant guidance pertaining to applications for costs before setting out the justification for why such should be awarded.

1.10 It is highlighted at this juncture that owing to how the Council have effectively split the two commercial units within the Condition there are aspects of unreasonable behaviour that relate to one but not the other of these units. In light of such the third section of this statement is split between the behaviour relating to the separate commercial units.

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2.0 RESPONSE TO THE COUNCIL'S STATEMENT OF CASE

2.1 Detailed guidance on making a costs application is provided under ID reference 16 of the Planning Practice Guidance. As it states at paragraph 028.

The aim of the costs regime is to:

- *encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case*
- *encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,*
- *discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.*

2.2 The aim to encourage reliance on reasons for refusal which "stand up to scrutiny" does not mean they need to win the day. Whilst in this instance the appeal does not relate to a refusal per se, we highlight that given regard to the context of the decision the revised wording of Condition 8 is tantamount to such, and it is a decision which does not stand up to scrutiny.

2.3 The planning system generally expects the parties to bear their own costs. But where decisions reflect a failure to appreciate the basic facts of an application proposal, ignore relevant planning history, ignores the site context or puts unreasonably to one side the key planning benefits of a proposal, an Appellant should recover their costs of the appeal.

2.4 This is a case which fully justifies an award of costs both on substantive and procedural grounds since the Council failed to behave in a reasonable way or to follow good practice or to exercise their responsibilities properly – principally we consider that retrofitting the reason a condition was imposed to be tantamount to a failure in decision making, further the restriction on the uses permitted do not stand up to scrutiny even under a small test of strain.

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3.0 The Council's Unreasonable Behaviour

3.1 In the following paragraphs we identify a number of ways in which the Council's decision in relation to Condition 8 was unreasonable. As set out in the first section some of the grounds relate to the approach taken to the respective commercial units.

3.2 Given the above we have, for ease of reference, divided comments in relation to the respective commercial units. So as to keep matters as straight forward as possible we have referred to them by their current operation being Meadow Hall Veterinary Practise ('the vets') and Meadows Café and Store ('the shop').

3.3 Given the revised nature of the planning appeals system there is an inherent and inevitable need to stray into grounds of planning judgement so as to highlight what is contended to constitute unreasonable behaviour. Where this is undertaken it will be clearly referenced.

3.4 The application was determined under delegated powers and is supported by a published Officer's Report. Reference will be given to said report when setting out commentary below. It is again highlighted that contrary to Policy DM3 the Council did not seek to discuss the application prior to its determination.

The Vets

3.5 As is set out in the first section of this statement the use of the Vets was restricted to such by virtue of Condition 8 of the parent permission. The reason for such being because of *the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).*

3.6 At the time of the determination of the parent permission the use of the vets would have fallen within Class D1, but following changes to the Use Class Order, is now relevant under Class E(e) as a provision of medical/health care.

3.7 In reaching the determination on the application subject to the appeal the Officer's Report indicates that from a land use perspective there were no concerns with varying condition 8 to afford greater flexibility to the uses permitted within this unit. Whilst this was the case Officers, following a consultation response from Environmental Health Officers, considered that the permitted uses within Class E should be limited to:

> • *E(a) Display or retail sale of goods, other than hot food;*
> • *E(c) Provision of the following kinds of services: i) Financial, ii) Professional (other than health or medical), or iii) Any other services which it is appropriate to provide in a commercial, business or service locality.*

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• E(e) Provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner;
• E(g)(i) An office to carry out operational or administrative functions.

These uses are reflected within Condition 8 of the Decision Notice.

3.8 As a result of such should the permission be implemented then subsequent permission would be needed for the use of the vets for:

- **E(b)** Sale of food and drink for consumption (mostly) on the premises
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- **E(f)** Creche, day nursery or day centre (not including a residential use)
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
- **E(g)(ii)** Research and development of products or processes
- **E(g)(iii)** Industrial processes

3.9 It is our consideration that the restriction on such uses does not stand up to scrutiny . We contend that there has been a failure to give regard to the context of the area, a failure to consider the nature of the restrict uses, and a failure to consider national policies and government guidance.

3.10 Before exploring these aspects further we highlight that, as per established practice and case law it would not, unless controlled by a condition, require planning permission for a change between specific reference within Class E. The reason for such being that such a change would not, when regard is given to Section 55 of the Town and Country Planning Act 1990 (as amended), constitute development.

3.11 When Class E was brought into effect this was a purposeful decision by Government so as to reduce bureaucracy, increase flexibility and to a certain extent allow the markets to determine the suitability of proposals within an area. The amendments to the Use Class Order also introduced other specific uses and amendments beyond Class E.

Context of the Area

3.12 The justification from the Environmental Health Officer in recommending a restriction to the specific elements of Class E was made on the basis *to ensure the amenity of the residents on the 1st floor of the building is protected.* It is the role of the planner to question and scrutinise such before including within a decision notice.

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3.13 Whilst recognising that such considerations would fit within the original reason for the condition being attached, we raise concern that the Environmental Health Officer has failed to give regard to the context of the area.

3.14 Notably it is highlighted that the condition would restrict the use of the vets in par for the *Sale of food and drink for consumption (mostly) on the premises.* This is despite the adjacent commercial unit operating a lawful ancillary café as part of the parent permission.

3.15 Clearly the logic behind such does not stand up to scrutiny and the Council has provided no evidence anecdotally or otherwise to state that the current use of the premises in part for the sale of food and drink is resulting in harm to the amenity of the residential properties on the first floor of the building.

Nature of Restricted Uses

3.16 Further to the above, it is highlighted that Class E(g) is defined as being *Uses which can be carried out in a residential area without detriment to its amenity.*

3.17 Clearly therefore it is within the definition of the uses falling within Class E(g) that they are inherently compatible with residential uses. In light of such there appears little logic in restriction of premises for research and development or industrial processes. The only conclusion one can reach is that the Environmental Health Officer disagrees with Central Government policy on the computability of these uses with residential properties, a position taken without evidence. Clearly this too does not stand up to scrutiny.

National Policy and Guidance

3.18 We consider that there has been a failure on two accounts to consider national policy and guidance when seeking to restrict the use of the vets.

3.19 Firstly, it is clearly the position of Government that it is wholly appropriate for there to be residential properties above commercial Class E buildings. This is evidenced in a variety of policy documents, guidance notes and ministerial statements. These are summarised below:

- Policy L2.1.a. of the NPPF states: *Substantial weight should be given to the benefits where a development proposal would achieve one or more of the following:… Making better use of vacant and underutilised land and buildings (such as: by bringing back into residential use empty homes and other suitable buildings; **converting space above shops**; redeveloping underutilised retail and business sites; and building on or above service yards, lock-ups, car parks and other transport infrastructure which are no longer required).* Clearly the

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implication is that residential space above shops and by extension Class E uses, is acceptable.

- Policy L2.1.d of the NPPF states *Substantial weight should be given to the benefits where a development proposal would achieve one or more of the following…* ***Creating additional homes or floorspace within settlements by using the airspace above existing residential and commercial premises****, or through sensitive redevelopment or additional development within existing plots (including, but not limited to, the addition of mansard roofs, proposals to fill gaps in the existing roof line, the introduction of higher buildings at street corners and additional units within residential curtilages)…* Clearly the implication is that residential space above existing commercial premises should be encouraged.
- The General Permitted Development Order (Part 2, Schedule 2, Part 3 Classes E, and H) grants planning permission, subject to prior approval, for a change of use from Class E to mixed use Class E and C3 residential. Clearly the assessment is that the two uses (Residential and Class E) are compatible with only limited need for wider considerations.
- Written Ministerial Statements published at the time of the introduction of Class E introduced a very high threshold for Article 4 direction and the restriction of changing uses to residential. This again shows the general assumption from central government that residential uses are wholly compatible with Class E units and that restrictions should be limited.

3.20 Given that this is the case we do not consider that the restriction of specific uses stands up to scrutiny in that it is acting contrary to clearly established positions regarding the computability of mixed-use developments as defined by central government.

3.21 In addition to this, we consider that the position fails to give regard to Policies DM6 and DM7 of the NPPF. In respect of DM6 we highlight that there is, in our opinion, a failure to identify a clear justification for the restriction. The reference given in the comments is in the interest of residential amenity but for the reasons set out above this would be contrary to the position of local government and no clear justification is given for going against such.

3.22 In respect of Policy DM7 we emphasise that this states:

> *Development proposals should be assessed on the basis of whether they would be an acceptable use of land. Matters which are controlled by separate regulatory regimes may, in the context of a particular development proposal, be a material consideration where they have land-use implications. Decision-makers should assume, unless there is clear evidence to the contrary, that those separate regimes will operate effectively.*

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We highlight that many of the likely implications arising from the restricted uses such as noise and smell can be reasonably controlled by the Environmental Health regime specifically as statutory nuisances under the Environmental Protection Act 1990. It is our contention that the approach taken by the Council is to propose a blanket restriction on such uses for ease of enforcement rather than seeking to rely on existing regulatory regimes.

3.23 It is our position that in respect of DM6 and DM7, the Council have failed to consider the wording of the condition in light of the tests set out within the NPPF.

Conclusion

3.24 For the reasons set out above we contend that the Council, in applying the condition, have failed to give due weight to whether its wording meets the requirements of Policy DM6 of the NPPF. We highlight that whilst the restrictions may have been raised by the Environmental Health Officer it is the role of the Local Planning Authority to determine if the recommendation in consultation is appropriate giving regard to the tests set out in DM6.

3.24 No such analysis was undertaken and, as evidenced by the matters above, it is clear that the wording of Condition 8 in respect of the vets does not meet the relevant tests in that it is not necessary nor reasonable. To this extent the condition as it relates to the vet does not stand up to scrutiny and highlights unreasonable behaviour on behalf of the Local Planning Authority.

3.25 The unreasonableness in this regard being the failure to consider the context of the area, a failure to consider relevant central government policy and a failure to consider the specific uses within Class E.

3.26 We have, above, highlighted this consideration in relation to the majority of the restricted uses apart from E(d) and E(f). Given such the appellant would not object to such restrictions being made to a revised condition.

The Shop

3.27 As is set out in the first section of this statement the parent permission granted consent for the use of the premises as a retail space with ancillary café. Condition 8 of that permission included a restriction on the retail use with the reason for such being because of *the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).*

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3.28 At the time of the determination of the parent permission the use of the vets would have fallen within Class A1 with ancillary cafe, but following changes to the Use Class Order, is now relevant under Class E(a).

3.29 In determining the application subject of this appeal the Council altered the condition in respect of the shop to read:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) (or any order amending or revoking and/or reenacting these Orders):…

- The ground floor of the premises originally permitted as a retail unit shall be used for Class E(a) use only and no other purposes whatsoever without express written consent from the Local Planning Authority by way of application.

3.30 Whilst this would continue the use as consented by the parent permission, namely, as retail with ancillary café, it is highlighted that the reason for imposing the condition has significantly altered from that of the parent permission. The reason now reading:

> *To ensure the village shop is retained in line with the original planning permission and as other changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).*

3.31 It is our consideration that the restriction on such uses does not stand up to scrutiny . We contend that there has been significant unreasonable behaviour in considering such. Firstly, we contend that there is wholly inappropriate to effectively retrofit the reason for condition beyond that originally intended by the parent permission. It is also contended that the wording of the condition does not serve the purpose given by the reason. Further, it is considered that there has been a failure to give regard to the context of the area, the nature of the restricted uses and national policy and guidance – these aspects clearly overlapping with the commentary relating to the vet.

3.32 We will address these in turn with specific reference to the Officer's Report of the appeal proposal and the parent permission. Before exploring these aspects further, we again highlight that, as per established practice and case law, it would not, unless controlled by a condition, require planning permission for a change between specific reference within Class E. The reason for such being that such a change would not, when regard is given to

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Section 55 of the Town and Country Planning Act 1990 (as amended), constitute development. The restriction of Class E therefore is to go against the purpose for which it was introduced namely to reduce bureaucracy, increase flexibility and to a certain extent allow the markets to determine the suitability of proposals within an area.

Reason for the Condition

3.33 As set out the reason for Condition 8 has expanded that of what was originally included within the parent permission, namely, the shop is now deemed to be warranted protection not just in the interest of neighbouring amenity but *to ensure the village shop is retained in line with the original planning permission.*

3.34 The Officer's Report of the appeal proposal expands on this stating:

> *As noted in representations, the provision of a village shop was an important consideration in the granting of the original permission (DC/10/1314) as community facilities in Thakeham were limited and the location was therefore not seen as sustainable. Though ultimately the shop was reduced in size under permission DC/18/2594 due to lack of interest from larger businesses, no information has been submitted to suggest that the shop is no longer necessary or viable. It is therefore the view of Officers that the complete removal of Condition 8 would not be appropriate given the importance of the village shop in obtaining planning permission originally, and to the community more generally.*

3.35 Evidently, the officer's consideration has gone beyond the determination of the parent permission and instead considered the original development for the wider housing development in the area. At this juncture we consider it important to highlight that the parent permission was a standalone planning application and not a Section 73 to the referenced DC/10/1314. This meant that it was assessed on its own merits.

3.36 It is clear from a review of the committee report of the parent permission that the size of the shop with ancillary café was fully considered. We would direct the Inspector to paragraphs 6.2 – 6.9 in this regard. The context of this consideration being reduced size offered compared to that consented under DC/10/1314.

3.37 We highlight that within these paragraphs there is no mention from the Council that the use of the shop needs to be protected for its contribution to the community. It is therefore clear that in considering the appeal proposal the Council has failed to consider the context of the parent permission and retrospectively applied planning judgement. We consider that this unto itself is unreasonable noting that it relates in a clear inconsistency in decision making.

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3.38 We go further to highlight that within the committee report for DC/10/1314 there is no mention that the shop was inherently needed for the sustainability of the wider development. Indeed, as is clear from a reading of the committee report the principle of development in the first place was linked to the enabling works of the wider mushroom farm. We would direct the Inspector to paragraph 3.29 of that report which even acknowledges that the sustainability of the site would rely on private vehicles. Paragraph 6.29 of that report also identifies the shop as a benefit of the scheme not an essential provision for the sustainability of the site. Indeed, as is clear from the committee report for DC/10/1314 the provision of the shop can hardly be considered an *important consideration in granting of the original permission.*

3.39 Accordingly, not only do we consider that the Council have sought to retrofit the wording of the condition to the parent permission, but they have sought to do it for the 2010 application with the committee report being some 15 years ago. To this extent we consider that instead of reviewing the planning history the Council has sought to rely on the comments of a single objection. This we contend is unreasonable behaviour.

Purpose of the Condition

3.40 Notwithstanding the clear unreasonable behaviour in retrofitting the reason, we contend that the wording of the condition does not even serve the purpose the Council is seeking to secure.

3.41 The reason, as confirmed by the officer's report, gives a clear contention that the condition is retrospectively needed to retain the shop for its own sake to help contribute to the sustainability of the area. The wording of the condition, however, is solely for use as a retail premises meaning that it could sell any type of goods whether this be food, clothes, hobby craft, etc. The sale of any of these goods would fit within the conditioned use on the land and would not require planning permission to change such. We also contend that given the operative part of the parent permission an ancillary café could be operated.

3.42 Evidently, the contribution of the premises on the sustainability of the site would be comparable to the specific items on sale. The condition does not, therefore serve, the purpose afforded by the reason. To this extent we highlight, that in neither the parent permission nor the original 2010 application was it considered there was a need to limit the nature of the retail operation.

3.43 Accordingly, we contend that if regard is given to the wording of the condition, the reason and the officers report it would not meet the tests set out in the NPPF. This unto itself constitutes unreasonable behaviour confounded by the failure to give regard to the planning history of the site.

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Other unreasonable behaviour

3.44 In respect of this unreasonable behaviour we consider there to be significant overlap with those comments made regarding the vet. To this extent we highlight that the comments from the Environmental Health Officer related to both commercial units not just the vets. We have set out above why we consider it to have been unreasonable to limit the shop for the reasons given, however, it stands to reason that had this not been the case the use of the premises would have been subject to the same approach as that of the vets.

3.45 We will not repeat the comments made but direct the attention of the Inspector to that set out above; namely, that the justification for the comments from the Environmental Health Officer are unreasonable.

Conclusion

3.46 In respect of the Shop we contend that the clear unreasonable behaviour is the seeming retrofitting of the reason for the condition beyond the scope of that considered in both the parent and original permission.

3.47 Had the Council undertaken a thorough review of the relevant committee reports it would have been clear that, despite the comment of an objector, the shop was not considered necessary to the wider delivery of housing within the parent permission. It was not considered a necessity to the wider site's sustainability but part of the wider plethora of planning benefits.

3.48 This failure to give due regard to the planning context and history has resulted in an unreasonable approach to the condition contrary to the submission made under Section 73. This is clearly apparent by the expansion of the reason which was originally only focused on the preservation of amenity not for purposes relating to sustainability.

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4.0 Conclusion

4.1 This application for an award of costs relates to what we contend amounts to unreasonable behaviour in the determination of the application subject of this appeal. This unreasonable behaviour is principally in relation to the wording and reason for Condition 8.

4.2 The submission made under Section 73 had been to remove Condition 8 in its entirety; instead, the Council, without discussion with the appellant, sought to vary the condition and the reason. The justification for which, as set out above, unreasonably went beyond the reason the condition was initially imposed.

4.3 The appellant has indicated their willingness to accept some restrictions to specific elements within Class E, namely for indoor sport or day nursery. This is furthered by noting that premises for these uses are already provided within the estate.

4.4 We have set out above why we consider that the approach of the Council is unreasonable and does not stand up to scrutiny. Such behaviour we contend should be consider as being substantive, though we consider the lack of engagement to be procedural.

4.5 In terms of substantive behaviour it is summarised that in reaching their determination the Council has undertaken the following examples set out within the NPPG.

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*

We consider the Council has failed to determine the application in accordance with national policy and material considerations. Such an approach has led to a delay in the development being the necessity of this appeal.

- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

The comments from the Environmental Health Officer on which the Council based the restrictions is extremely vague and generalised and is not supported by any evidence either anecdotal or specific to the scheme.

- *not determining similar cases in a consistent manner*

The considerations relating to the shop are inconsistent with the previous determinations on site which have not deemed its retention to be necessary to the wider sustainability of

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the site. The reason as per the parent permission being only considered in relation to the impact on neighbouring amenity.

- *imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations*

We have at length set out why the condition fails these relevant tests. This is clearly unreasonable behaviour.

4.6 It is therefore our position that the Council have acted unreasonably in the approach to Condition 8 and that such an approach has directly resulted in the bringing of this appeal which has resulted in an inevitable award of costs. The costs incurred by the appeal are predominately the time taken in its preparation including that of this planning consultancy and Counsel advice.

4.7 We therefore respectfully request that a full award of costs be made against the Council.

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Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/26/1153
Abingworth Nurseries, Storrington Road, Thakeham, West Sussex,

DESCRIPTION:
Amendment of Condition 8 of previously approved application DC/18/2594 (Alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as veterinary practice (class D1) and change of use of upper floor to two flats (use class C3)) relating to Use Classes.

RELEVANT PLANNING HISTORY:

DC/10/1314	Demolition of existing buildings and redevelopment of the Abingworth Nursery site for 146 dwellings, comprising of open market dwellings, 51 dwellings for the 55 plus age group, 12 affordable dwellings, 20 key worker dwellings, village hall building (including shop and doctors surgery), pre-school facility, community workshops/studio (957.5sq metres), sports pitches and changing rooms, cricket pitch and pavilion, children's play area, access roads, open space and landscape areas (including footpaths).	Application Permitted on 19.04.2013
DC/16/2835	Variation of conditions No 1 to previously approved application DC/16/0871 by altering the housing mix and increase the housing number by 11, and provide a flat above the village shop.	Application Permitted on 08.08.2018
DC/18/2594	Alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as a veterinary practice (class D1) and change of use of upper floor to two flats (use class C3) relating to Use Classes.	Application Permitted on 23.04.2019

DESCRIPTION OF THE SITE

The building is part of the Abingworth development site permitted under application DC/10/1314 located within the Parish of Thakeham and accessed from Storrington Road. Works have largely been completed at the site with the development comprising 157 dwellings, including 123 open market dwellings, 16 affordable units and 20 local worker units as well as a number of community facilities. The village shop was permitted under application DC/10/1314, though subsequent applications have led to changes to its design and layout including DC/18/2594 which resulted in the addition of a veterinary practice and an additional second floor flat.

It should be noted that following changes to the Use Class Order in September 2020, both the village shop and veterinary practice now fall under Use Class E(a) and E(e) respectively (previously A1 and D1).

DESCRIPTION OF THE APPLICATION

The applicant is seeking to remove condition 8 of previously approved application DC/18/2594 which restricted the use of the two commercial premises on the ground floor. Condition 8 reads:

Regulatory Condition: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or reenacting that Order), the ground floor of the premises hereby permitted shall be used for a veterinary surgery and retail unit and no other purposes whatsoever, (including those falling within Classes D1 or A1 as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express written consent from the Local Planning Authority first being obtained.*

Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).

This condition currently requires an application to be made to the Council should the building be used for anything other than an A1 village shop or D1 veterinary surgery.

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 7 - Strategic Policy: Economic Growth
Policy 9 - Employment Development
Policy 10 - Rural Economic Development
Policy 11 - Tourism and Cultural Facilities
Policy 12 - Strategic Policy: Vitality and Viability of Existing Retail Centres
Policy 13 - Town Centre Uses
Policy 14 - Shop Fronts and Advertisements
Policy 33 - Development Principles
Policy 43 - Community Facilities, Leisure and Recreation

Horsham District Local Plan (2023-40) (Regulation 19):
Strategic Policy 19: Development Quality
Strategic Policy 20: Development Principles
Policy 22: Shop Fronts and Advertisements
Strategic Policy 27: Inclusive Communities, Health and Wellbeing
Policy 28: Community Facilities, Leisure and Recreation
Strategic Policy 30: Enhancing Existing Employment

Planning Advice Notes:
Shaping Development in Horsham District (SDPAN)

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

HDC Environmental Health: Comment
[Summary] There is no objection in principle to the proposal to remove condition 8 of approved application DC/18/2594 however the proposal to include all uses of the class E use class is a concern. It is recommended that the following uses are excluded from any permission given:

- E(b) sale of food and drink for consumption (mostly) on the premises
- E(d) indoor sport, recreation or fitness
- E(f) creche, day nursery or day centre (not including residential use)
- E(g)(ii) research and development of products or processes
- E(g)(iii) industrial processes.

PUBLIC CONSULTATIONS:
Representations:
2 letters of Objection have been received from 2 addresses, objecting to the application on the following grounds:

- Assuming there is a planned changed of use we have no information about what changes are being proposed, and fear that any changes would not be subject to consultation.
- One of the main reasons planning permission was granted was because a local shop would be provided to the village. Both the shop and vets are very much appreciated and necessary.

No letters of Support have been received.

Parish Comments:
Thakeham Parish Council: None received

Member Comments:
None received

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

As discussed above, the applicant is seeking the removal of Condition 8 of DC/18/2594 which would allow for permitted development rights to become applicable at the site, which is currently restricted in use to a village shop and veterinary practice. The reasons given in the submitted Planning Statement (ref. 131/26/MS) for this removal include: the condition is not reasonable or necessary; there is limited justification for the condition in the Officer Report; and the fact that other conditions exist to protect neighbouring amenity that would remain unchanged by this application (e.g. opening hours).

Should the removal of Condition 8 occur then the village shop and/or veterinary practice could change to one of the following uses within Use Class E without the requirement to seek planning permission from the Council:

(a) Display or retail sale of goods, other than hot food;
(b) Sale of food and drink where consumption is mostly undertaken on the premises;
(c) Provision of the following kinds of services:
    i) Financial,
    ii) Professional (other than health or medical), or

iii) Any other services which it is appropriate to provide in a commercial, business or service locality.

(d) Indoor sport, recreation or fitness, not involving motorised vehicles or firearms;
(e) Provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner;
(f) Crèche, day nursery or day centre, not including a residential use;
(g) For:
    i) An office to carry out operational or administrative functions,
    ii) The research and development of products or processes, or
    iii) Any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

As noted in representations, the provision of a village shop was an important consideration in the granting of the original permission (DC/10/1314) as community facilities in Thakeham were limited and the location was therefore not seen as sustainable. Though ultimately the shop was reduced in size under permission DC/18/2594 due to lack of interest from larger businesses, no information has been submitted to suggest that the shop is no longer necessary or viable. It is therefore the view of Officers that the complete removal of Condition 8 would not be appropriate given the importance of the village shop in obtaining planning permission originally, and to the community more generally.

Officers do though consider it reasonable to amend the wording of Condition 8 to allow for more flexibility with the part of the building currently in use as a veterinary practice, given that this was a later addition and thus did not undermine the principles of the original permission. In line with the recommendations of the Environmental Health team to ensure the amenity of the residents on the 1st floor of the building is protected, Officers would consider the following uses within Class E to be acceptable:

- E(a) Display or retail sale of goods, other than hot food;
- E(c) Provision of the following kinds of services:
    i) Financial,
    ii) Professional (other than health or medical), or
    iii) Any other services which it is appropriate to provide in a commercial, business or service locality.
- E(e) Provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner;
- E(g)(i) An office to carry out operational or administrative functions.

However, despite the above being considered acceptable by Officers it was initially unclear as to whether Condition 8 could be varied to include other uses given how specific the original description was. The original description for DC/18/2594 read:

'Alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as a veterinary practice (class D1) and change of use of upper floor to two flats (use class C3) relating to Use Classes.'

However, *Freddie Reid v SSLUHC & others [2022] EWHC 3116* is relevant where it was found that what can lawfully done with a piece of land is not strictly confined to the description on the planning document but rather by operation of law (i.e. if a restrictive condition was removed, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 would continue to operate irrespective of the development description). This is relevant in this case as, if Condition 8 were to be removed, as the development has been first occupied in accordance with these uses, no planning permission would subsequently be required for a change of use within Class E despite the express reference to both A1 and D1 in the description.

It is acknowledged that in this case Officers are seeking to vary Condition 8 rather than remove it in its entirety and that case law states that you cannot add conditions inconsistent with the operative part of the development. While on face value allowing some Class E use is inconsistent with the references to

A1 and D1 in the description, because these uses have been implemented the Use Classes Order states that these uses can freely change within Class E absent of any restrictive condition.

It is therefore considered appropriate to vary Condition 8 to read:

Regulatory Condition: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) (or any order amending or revoking and/or re-enacting these Orders):*

- *The ground floor of the premises originally permitted as a veterinary surgery shall be used for Class E(a), (c), (e) and (g)(i) Use only and for no other purposes whatsoever without express planning consent from the Local Planning Authority by way of application; and*
- *The ground floor of the premises originally permitted as a retail unit shall be used for Class E(a) Use only and no other purposes whatsoever without express written consent from the Local Planning Authority by way of application.*

Reason: To ensure the village shop is retained in line with the original planning permission and as other changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).

Conclusions:

As set out above, Condition 8 has been amended to allow for a more flexible use of the building permitted for use as a veterinary practice under application DC/18/2594.

Whilst a consent under s73 creates a new planning permission for the site, government guidance set out in the PPG is clear that only the matters being amended are to be considered. It is not the purpose or function of a s73 consent to revisit the principle of development on the site. Accordingly, the principle of development on this site remains settled and acceptable, along with all other matters not subject to these proposed amendments.

The conditions attached to the planning permission are otherwise repeated in their entirety, except where details have subsequently been submitted and agreed under separate applications.

Recommendation: Application Permitted

Conditions:

1 Plans

2 N/A

3 **Regulatory Condition:** External lighting for the relevant uses shall be installed in line with details agreed under application DISC/20/0239 and thereafter retained as such.

Reason: To safeguard the amenities of the site and surrounds in accordance with Policies 32 and 33 of the Horsham District Planning Framework (2015)

4 **Regulatory Condition:** The dog waste bin shall be provided in line with the External Works Plan (ref. 1868 5180 REV C) agreed under application DISC/20/0239 and thereafter retained as such.

Reason: To secure adequate waste facilities for dog waste in accordance with Policy 33 of the Horsham District Planning Framework (2015)

5 **Regulatory Condition:** External plant shall be implemented in accordance with the Proposed Ground Floor Mechanical Ventilation Layout Plan (ref. 1868 6143) agreed under application DISC/20/0239 and no further plant shall be installed without the prior written approval of the Local Planning Authority.

Reason: In the interests of amenity of adjacent residents and in accordance with Policy 33 of the Horsham District Planning Framework (2015)

6 **Pre-Occupation Condition:** Provision for the storage of refuse and recycling shall be made in accordance with the submitted External Works Plan (ref. 1868-5180 REV C) and retained thereafter for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015)

7 **Regulatory Condition:** No dwelling hereby permitted shall be occupied or the uses hereby permitted commenced until the cycle parking facilities serving the development have been constructed and made available for use in accordance with approved drawing number 1868 2110 REV A. The cycle parking facilities shall thereafter be retained as such for their designated use.

Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).

8 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) (or any order amending or revoking and/or re-enacting these Orders):

- The ground floor of the premises originally permitted as a veterinary surgery shall be used for Class E(a), (c), (e) and (g)(i) Use only and for no other purposes whatsoever without express planning consent from the Local Planning Authority by way of application; and
- The ground floor of the premises originally permitted as a retail unit shall be used for Class E(a) Use only and no other purposes whatsoever without express written consent from the Local Planning Authority by way of application.

Reason: To ensure the village shop is retained in line with the original planning permission and as other changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).

9 **Regulatory Condition:** No work for the implementation of the development hereby permitted shall be undertaken on the site except between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with Policy 33 of the Horsham District Planning Framework 2015.

10 **Regulatory Condition:** Deliveries to and collections from the retail shop and veterinary premises (including any subsequent occupier as permitted by this consent) shall not take place other than between the hours of 0800-1800 Monday to Saturday and at no time on Sundays or Bank or Public Holidays.

Reason: In the interests of the amenity of adjacent residents and in accordance with Policy 33 of the Horsham District Planning Framework 2015.

11 **Regulatory Condition:** The veterinary premises (including any subsequent occupier as permitted by this consent) hereby permitted shall not be open for trade or business except between the hours of 0800 and 1900 Monday to Sunday.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

12 **Regulatory Condition:** The retail unit premises hereby permitted shall not be open for trade or business except between the hours of 07.30 to 22.00 Monday to Friday and 08.00 to 22.00 on Saturday and Sundays.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

13 **Regulatory Condition:** The outside seating area as indicated on drawing no.1868 2110 Rev A shall not be used except between the hours of 09.00 to 20.00 daily.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

NOTE TO APPLICANT

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/26/1153
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Elevation plan	Existing Elevations	1868 2020	06.12.2018
Floor plan	Existing Floor Plans	1868 2010	06.12.2018
Floor plan	Proposed Floor Plans	1868 2110 A	17.12.2018
Location & Site plan	Location and Proposed Site Plan	1868 2101 B	17.12.2018
Elevation plan	Proposed Elevations	1868 2120 A	17.12.2018

DELEGATED

Case Officer sign/initial Sophie Moore Date: 10/09/2026

Authorising Officer sign/initial Adrian Smith Date: 11/09/2026

PLANNING COMMITTEE REPORT

TO:	Planning Committee South
BY:	Head of Development
DATE:	16 April 2019
DEVELOPMENT:	Alterations to an existing building; retention for use as a village shop (class a1) with ancillary café facilities to part of ground floor, use of part of ground floor as veterinary practice (class D1) and change of use of upper floor to two flats (use class C3).
SITE:	Abingworth Nurseries Storrington Road Thakeham West Sussex
WARD:	Chanctonbury
APPLICATION:	DC/18/2594
APPLICANT:	**Name:** Abingworth Developments Ltd **Address:** c/o Agent

REASON FOR INCLUSION ON THE AGENDA: More than 8 letters of representation have been received within the consultation period with a view contrary to the recommendation.

RECOMMENDATION: To grant permission subject to conditions

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.2 The current application relates to village shop building, which is located towards the central northern part of the wider development site. This building has been constructed and has permission to be used a retail shop with ancillary storage with a separate access to a single two-bedroom flat within the roof area (DC/16/2835). The current application proposes to retain a smaller village shop with associated storage at ground floor level, with an ancillary café. The remaining ground floor area would be occupied by a veterinary practice. The proposal includes dividing the roof area into two separate flats accessed separately.

1.3 The proposal includes alterations to the external appearance of the existing building which would comprise the following:

- Roof extension to front projection facing south comprising a barn hipped gable end. Two windows proposed to the gable end at first floor level.
- Additional pitched roof dormer to north west elevation.
- New entrance for veterinary surgery to the south front facing elevation.
- New entrance to village shop within south west facing shopfront.
- Additional ground floor doors and windows to side and rear elevations.
- Outside seating for café and cycle parking to the front forecourt area.

DESCRIPTION OF THE SITE

1.4 The building is part of the Abingworth development site currently under construction. The site is located in the Thakeham Parish, to the east of High Bar Lane and to the north east of Abingworth Hall Hotel. The majority of the site lies to the east of Storrington Road and formerly included disused mushroom production buildings in the southern section of the site.

1.5 The original application permitted the redevelopment of the Abingworth Nursery site for 146 dwellings with various community and sports facilities, including a pre-school facility, community workshops/studio, sports pitches, changing rooms, a cricket pitch and pavilion, a children's play area, access roads, open space and landscaped areas (ref: DC/10/1314).

1.6 The last applications for this site have been minor material amendment applications to the original permission. With these amendments and previous approvals, the development would now comprise 159 dwellings, including 123 open market dwellings, 16 affordable units and 20 local worker units, as well the community facilities listed above.

1.7 Works are well underway on site with a number of dwellings and community facilities constructed. This includes the construction of the dwellings around the cricket pitch and to the south of the cricket pitch (Phases 1A & 1B). The cricket pitch & pavilion, football pitches and changing rooms and the nursery have also been completed. The Village Hall has also been recently completed and has been handed over to the Parish who are now running it. Works have also significantly commenced at Phase 2 with the construction of a number of houses.

2. INTRODUCTION

STATUTORY BACKGROUND

2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES
The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 4 - Strategic Policy: Settlement Expansion
Policy 7 - Strategic Policy: Economic Growth
Policy 9 - Employment Development
Policy 10 - Rural Economic Development
Policy 15 - Strategic Policy: Housing Provision
Policy 16 - Strategic Policy: Meeting Local Housing Needs
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 40 - Sustainable Transport

Policy 41 - Parking

RELEVANT NEIGHBOURHOOD PLAN
The site is within the Parish of Thakeham which has a made plan. Policy 4 within the Thakeham Neighbourhood Plan covers proposals for the redevelopment of the Abingworth Nursery site. The redevelopment of the site is supported subject to criteria.

PLANNING HISTORY AND RELEVANT APPLICATIONS
The original consent for the site (ref: DC/10/1314) was granted consent on 19/04/2013. This permission has been amended over the last few years through various S73 applications for minor material amendments. The most recent S73 approval is DC/16/2835 which allowed amendments to Phase 2.

DC/10/1314	Demolition of existing buildings and redevelopment of the Abingworth Nursery site for 146 dwellings, comprising of open market dwellings, 51 dwellings for the 55 plus age group, 12 affordable dwellings, 20 key worker dwellings, village hall building (including shop and doctor's surgery), pre-school facility, community workshops/studio (957.5 sq metres), sports pitches and changing rooms, cricket pitch and pavilion, children's play area, access roads, open space and landscaped areas (including footpaths)	Permitted 19/04/2013
DC/16/2835	Variation of conditions No 1 to previously approved application DC/16/0871(Variation of Condition 1 of previously approved application DC/15/2547 to amend the design and layout of 17 dwellings (Plot 22 to 39). Division of plot 35 into two plots to allow an additional dwelling) To amend the layout of plot 76 to 126 (Phase 2) by altering the housing mix and increase the housing number by 11, and provide a flat above the village shop	Permitted 08/08/2018
DC/18/1838	Variation of Condition 1 of previously approved application DC/10/1314 (as amended by DC/16/2835). Minor material amendment to the layout and design of plots 49 and 56.	Pending determination

3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

3.2 **HDC Environmental Health**: Comment. Due to the proximity of adjacent dwellings, the following is recommended:

- Hours of opening are between 08:00 and 20:00 weekdays and Saturday, closed Sundays and Bank Holidays.
- No building services to be installed without permission of the Planning Authority.
- No animals to be kept at the premises outside the permitted hours of opening.

OUTSIDE AGENCIES

3.3 **WSCC Highways**: No objection.

3.4 **Southern Water**: Comment. A formal application for a connection to the public foul sewer to be made by the applicant or developer.

PUBLIC CONSULTATIONS

3.5 **Thakeham Parish Council**: No objection.

- The building is a commercial asset, separate from the community owned facility of the development. The key community priority is securing early delivery of the long awaited village shop facility and this proposal offers a deliverable prospect for this.
- The Parish are aware of concerns of some local residents that this proposal involves a smaller retail space than many expected. However, the consensus of retail development expertise was that a village store at this location can only operate economically in around half the available ground floor space.
- It is strongly in the community interest and a material planning consideration for the shop to part of a viable commercial letting arrangement for the building. The current application offers such a package.
- Inclusion of a café within the store is desirable as it offers synergy with the Village Hall and playing fields and will help the store to remain financially sustainable.
- The proposed change of use of just under half of the ground floor as a veterinary surgery has prompted concerns regarding impact on neighbouring amenity. The responses from the prospective tenant (an existing Thakeham resident based nearby) are considered satisfactory. In planning terms, members took the view that this use is appropriate for this location, nor likely to create substantial extra vehicle movements.
- The Parish noted that the external alterations proposed would be quite modest.
- No objection is raised to the division of large roof area into two adequately sized rental flats. Members noted that the Parish is short of this type of accommodation.

3.6 **101** representations have been received objecting to the application on the following grounds:

- The applicant has demonstrated a blatant disregard for the needs of the local community. The proposed reduction in the floorspace of the village shop will result in a unit that is both unviable as a commercial prospect and incapable of meeting the critical need of the community for a convenience store.
- There is little need for a new veterinary surgery in the local area.
- This proposal is contrary to the requirements of the legal agreement for the Abingworth Site which requires the shop to retained as within Class A1, A2 or B1(a) or for educational or leisure purposes subject to planning permission.
- It is stated that the approved shop is too large to be viable. However, little evidence has been submitted to support this.
- Concern is also raised that the smaller shop would be viable and would offer sufficient goods.
- The proposed veterinary surgery will result in a noise impact on adjacent properties.
- The delivery of a village shop is a key aspect of the proposed development in terms of ensuring its sustainability and the success of the new community.
- The new shop is needed to reduce the number of car journeys to nearby settlements.
- Residents have moved to the Abingworth site on the basis of a shop being provided. The proposal results in a significant decrease in the size of the shop.
- The proposal is not in keeping with the area.
- It was envisaged that the flat above the shop would be for the manager. It is not envisaged that the flat would be put on the open market. Abingworth does not need any more residential accommodation.
- There are inaccuracies in the submitted statements with the application.
- The scheme is contrary to the HDPF and the Thakeham Neighbourhood Plan.

- Concern is raised regarding the proximity of the vets to adjacent properties in terms of safety.
- The design of the proposal is inappropriate.
- Concern is raised regarding the impact on parking and highway safety.
- D1 uses on this site would be inappropriate.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

6.1 The main considerations in the determination of this proposal are the principle of the change of use, whether the changes to the appearance of the building are appropriate, highway safety and parking consideration and impact on amenity.

Principle of Change of Use:

6.2 Under the original approval, the Abingworth development was approved with a large retail shop which would offer a wide range of goods for the local community. This was considered an important provision and community asset in the original permission. Whilst the current proposal would still offer a shop, it would be much smaller and would include an ancillary café. The remaining part of the ground floor would be used for a new veterinary surgery. It can therefore be argued that the amount of goods for sale will be substantially reduced and the original provision of a larger shop for the community has been compromised. This concern is reflected in the objections received.

6.3 To justify the proposal and address this concern, the application includes supporting information. This includes a letter from Michael Jones & Co, who are a local commercial estate agent. The letter states that they have extensive experience in dealing with small retail properties in the West Sussex area. The estate agents state that at the time of the original permission, there was an interest in the retail unit from a Mr Shingadia, the proprietor of the Londis store in Southwater. It is stated that the layout of the shop came about as it was similar in size to the store at Southwater.

6.4 It is understood that since commencement of development, there have been ongoing negotiations with Mr Shingadia for the potential letting of the shop building. Unfortunately, the negotiations ultimately failed because the project was unviable. This was partly due to the resistance of a bank to finance new retail units in unproven locations. This was also partly due to Londis changing their business model in relation to financial assistance in the fit out of new stores. Evidence has been submitted in support of the above, including emails from Mr Shingadia, that show that the intentions of Mr Shingadia and the applicant was for the building to be utilised as a large store. However, it is now clear that this is not a viable option. With this mind, an alternative solution has been found to enable this building to be used and function as a community facility.

6.5 Following the loss of a user for the larger unit, Abingworth Development have not been able to find a replacement. The current proposal is based on offers from a local veterinary practise and a retail owner who are willing to take on two smaller units. Based on local research, the

retail operator believes that the smaller retail shop unit will be viable selling a variety of goods including a selection of food items.

6.6 It is clear based on the submitted information that the original shop is not viable in this location due to its size. Michael Jones & Co agree with the applicant that a large store of 371 sqm could only operate in an urbanised area. They also believe that the addition of the café facility would make this use more attractive and enhance its long term viability.

6.7 At the request of the Planning Department, additional information has been submitted regarding the use of the larger retail unit. The applicants have submitted emails from the Coop which concludes that a national retail operator also agrees that the large floor area of the original shop is not viable given the demographics of the area.

6.8 Sufficient evidence has been that shows that the approved shop is too large to be a viable asset in this location. The applicant has found two tenants, in the form of a local vet and a retail operator, who are willing to take on the building with their respective businesses which they believe will be viable in this location. Whilst the loss of the larger unit is regrettable, the current proposal will still include a shop unit which will supply a range of good including staple food goods.

6.9 Given the submitted evidence, it is felt that the loss of the approved retail unit has been adequately justified. Additionally, the proposed use of the building for a retail unit and veterinary surgery at ground floor level with two flats above is considered acceptable in principle in this location, subject to the below considerations and restrictions.

Design Considerations:

6.10 Policy 6 of the TPNP 2017 states the scale, density, massing, height, landscape design, layout and materials of all development proposals should reflect the locality, and the scale of the surrounding buildings and in the wider area. Policy 33 of the HDPF states that proposals should ensure that the scale, massing and appearance of a development is of a high standard and layout and relates sympathetically with the built surroundings.

6.11 The village shop has now been built in accordance with the relevant permission but with the internal layout yet to be implemented. The building has red brick walls with a slate roof. Pitched roofed dormers windows have been constructed in accordance with the permission to the front and side elevations. The rear roofslope includes rooflights. The shop windows are yet to be installed.

6.12 The current proposal would not alter the overall depth, width or the main ridge height of the building. The main external change relates to the addition of a gable end to the south west facing hipped roof. The extension is to the existing projecting and would amend the roof of the south west facing projection from a hipped roof to a larger gable end. The proposed gable end would remain subservient to the main roof of the building. It would include two windows at first floor level to the first floor front elevation.

6.13 To the north west facing roof slope, the proposed gable end would include an additional dormer window. The dormer would match the existing pitched roof dormer which has already been constructed to this rooflsope. Overall, the gable end and additional dormer are considered sympathetic additions which would retain the appearance of the building.

6.14 The other external alterations proposed include a small lean-to storage area to the rear elevation, the incorporation of areas of timber boarding including to the front and part of the adjacent side and insertion of new doorways and openings to serve the new veterinary and retail use. The proposal also includes the formation of a terraced area to the front of the building. This is proposed to be used as an outside seating area with a new cycle stand. The proposed external alterations are considered appropriate in terms of their design and

appearance and would be in accordance with the relevant design policies of the TPNP 2017 and the HDPF 2015.

Highway Safety and Parking:

6.15 The proposed site is served with associated parking which is to be shared with the Village Hall. Currently there are 76 parking spaces (including 10 disable spaces) associated with the village hall and shop building. The current proposal would not alter this provision. The proposed vets, 2 flats and shop would utilise a number of these spaces for staff and visitors. This use is comparable to the parking requirements for the larger shop use and flat approved for this building. The WSCC Highways Officer has commented that the parking provision on site is appropriate for the current proposal.

6.16 The application uses the existing access from Storrington Road into Abingworth Meadows. This access is considered acceptable to cater for the associated movements with C3, A1 and D1 uses given the existing permitted uses it will serve.

6.17 Cycle parking has been provided fronting the shop for general use and under the stairwell for the residential uses. These provisions are considered appropriate subject to a condition that the cycle parking is provided prior to the use of the shop, vets and the two flats.

Impact on Amenity:

6.18 The proposed building is sited in close proximity to residential properties with the garden of 1 Pavilion Close directly to the rear. The main external alteration proposed is the addition of a gable ended roof to the front elevation. In relation to 1 Pavilion Close, the main roof of the building remains unaltered. The proposed gable ended roof addition faces the newly constructed Village Hall and would not impact on any adjacent properties in terms of loss of outlook or an increased sense of enclosure.

6.19 To the rear facing rooflsope, five rooflights have been installed in accordance with the relevant permission. The rooflights were approved to serve the flat approved to the first floor of the building. These rooflights would be retained to also serve the two proposed flats. With the benefit of a site visit, the position of the rooflights in relation to the internal first floor level has been assessed. The rooflights are of an appropriate height (above 1.7m from the finished floor level) so that there would be no overlooking of the rear properties. Additionally, the existing and proposed north west facing dormer window would not result in any overlooking of any adjacent properties as it faces the football pitch.

6.20 In terms of noise impact, the proposed vets would be positioned to the north west section of the building and would include a reception, staff rooms, consultations rooms and theatre rooms. The Council's Environmental Health Team have commented that due to the proximity of adjacent dwellings conditions should imposed on the uses relating to hours of opening, building services and that no animals should be kept on the premises outside the permitted opening hours.

6.21 For the proposed vets, there is only one window proposed to the rear elevation. This would be used for a staff office. The other windows and the main door to the vets would face onto the football pitch and the village hall to the south, facing away from residential properties. The applicant has stated that the proposed windows will be acoustic double or triple glazed to provide noise reduction. These windows will have to be fixed shut to comply with appropriate care standards to stop animals absconding. As a result, it would be necessary to fit mechanical ventilation.

6.22 By the nature of the state of the animals being treated, these will require limited levels of exercise. The applicant has stated that the side pathway towards the football pitch will be finished in synthetic grass to accommodate this use. Any waste will be collected and

disposed of as clinical waste in accordance with best practice. The applicant has stated that, as suggested by the Parish Council, the vets are more than happy to provide funding for an additional dog waste bin for the adjacent football pitch. A condition is recommended requiring details of the waste bin to be submitted to the local planning authority for approval and for the bin to be installed and maintained by the vets prior to its use.

6.23 In terms of hours of operation, it is normal practice for a vets to be open between 8am and 7pm through the week. It is therefore considered appropriate for a condition to limit the opening hours of the vets to between 0800-1800 Monday to Saturday and at no time on Sundays or Bank Holidays. It is stated that the hours of opening of the retail unit will be 06.30 to 20.00 Monday to Friday and 07.30 to 22.00 on Saturday and Sunday. The proposed hours of opening for the retail unit are considered inappropriate for this location in close proximity to adjacent residential units. It is therefore recommended that the hours of opening for the retail unit are restricted to 07.30 to 22.00 Monday to Friday and 08.00 to 22.00 on Saturday and Sundays. A condition is also recommended that the outside terrace is only used up until 20.00 daily.

6.24 The Environmental Health Officer has recommended that no animals are be kept on the premises overnight. The applicant have responded that the vets will not be open 24 hours and that the majority of operations will be conducted during the day. Only emergency or critical cases will require overnight supervision and these animals are not likely to create any noise issues due to their state of health. The proposed plans indicate that the ward areas for dogs and cats after surgery is to the north west facing elevation of the building. This is the furthest point from 1 Pavilion Close within the building and the use of these rooms is unlikely to give rise to a significant noise impact, especially given that the windows for the room are fixed shut. It is accepted that vets can result in a noise impact from dogs barking but this will take place for the most part during the opening hours of the vets during the week. Given the above, it is not felt necessary to restrict the use of the veterinary surgery to stop animals being kept overnight.

6.25 For external plant, the original permission for the whole of the Abingworth site included a condition requiring details of external plant for the proposed retail unit to be submitted to the Local Planning Authority for approval. The current proposal does not include details of any plant or machinery to serve the retail unit or the vets. Consequently, the condition is again recommended for this proposal requiring details of all external plant to be submitted and approved in writing by the Local Planning Authority prior to the use of the proposed shop or the vets. A condition is also recommended that deliveries for the shop and vets shall only occur between the hours of 0800-1800 Monday to Saturday.

6.26 Having regard to the previous approved use of the building for a shop and a flat, the current proposal for the use of the building for a shop / café and two flats is considered comparable and would not result in a significant impact on the amenity of any adjacent properties.

6.27 Subject to the above conditions, the current proposal would not result in a significant impact on the amenity of any adjacent properties.

Other Matters:

6.28 Under the original permission, the legal agreement requires specification of the village shop to be submitted for approval. The agreement also requires the shop to remain in classes A1, A2 or B1(a) or for education and leisure purposes subject to planning permission. This permission has fully considered the current proposed change of use and will superseded the above requirements.

6.29 The scheme will result in the division of the first floor flat into two flats. The approved flat is large enough to be divided into two flats without compromising the standard of accommodation. This takes into account the additional dormer proposed which will add more

floorspace to the first floor. The smaller flats proposed would also be more in line with the Thakeham Neighbourhood Plan which allows a change to the mix of dwellings within the Abingworth site to allow smaller units of accommodation.

6.30 In terms of affordable housing, the proposed division of the larger unit into two units is not considered to trigger the requirement for affordable housing. This takes into account the previous permission which granted the provision of a flat above the shop (ref: DC/16/2835) and included 4 additional affordable housing units.

6.31 No details have been given regarding refuse collection for the flats, vets and proposed retail unit. A condition is therefore recommended that details of all refuse collection and storage are to be submitted to the local planning authority for approval prior to the occupation or any use of the building as approved.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

6.32 Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.

6.33 **It is considered that this development constitutes CIL liable development.** At the time of drafting this report the proposal involves the following:

Use Description	Proposed	Existing	Net Gain
		Total Gain	**224**
		Total Demolition	**0**

6.34 Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

6.35 In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

Conclusion

6.36 Sufficient evidence has been submitted to show that the approved retail unit would not be a viable option in this location. The proposed veterinary surgery and retail unit / café would be appropriate uses for the Abingworth site offering community facilities and would not result in a significant impact on the amenity of any adjacent properties, subject to the conditions outlined below. The proposal is also considered appropriate in terms of its design and highway considerations.

7. RECOMMENDATIONS

7.1 That planning permission be approved subject to the following conditions:

Conditions:

1. **Regulatory Condition**: Approved Plans List

2. **Regulatory Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3. **Pre-Occupation Condition**: Prior to the use of the veterinary surgery hereby permitted, details shall be submitted of a proposed dog waste bin in the locality to the Local Planning

Authority for approval. The bin shall be provided by the applicant and the details shall indicate the location of the bin and its maintenance. The dog bin shall be provided in accordance with agreed details and thereafter retained as such.

Reason: To secure adequate waste facilities for dog waste in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4. **Pre-Occupation Condition**: Prior to the use of either the retail unit or the veterinary surgery hereby permitted, details of external plant for the relevant unit shall be submitted to and approved in writing by the Local Planning Authority. The external plant shall thereafter be implemented in accordance with the approved details and no further plant installed without the prior written approval of the Local Planning Authority.

   Reason: In the interests of amenity of adjacent residents and in accordance with Policy 33 of the Horsham District Planning Framework 2015.

5. **Pre-Occupation Condition:** The dwellings, retail use and the veterinary surgery hereby approved shall not occupied or first used until provision for the storage of refuse and recycling has been made for the uses in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for use at all times.

   Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

6. **Pre-Occupation Condition**: No dwelling hereby permitted shall be occupied or the uses hereby permitted commenced until the cycle parking facilities serving the development have been constructed and made available for use in accordance with approved drawing number 1868 2110 Rev A. The cycle parking facilities shall thereafter be retained as such for their designated use.

   Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).

7. **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the ground floor of the premises hereby permitted shall be used for a veterinary surgery and retail unit and for no other purposes whatsoever, (including those falling within Classes D1 or A1 as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express planning consent from the Local Planning Authority first being obtained.

   Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to the potential amenity impact on adjacent residents under Policy 33 of the Horsham District Planning Framework (2015).

8. **Regulatory Condition**: No work for the implementation of the development hereby permitted shall be undertaken on the site except between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

   Reason: To safeguard the amenities of nearby residents in accordance with Policy 33 of the Horsham District Planning Framework 2015.

9. **Regulatory Condition**: Deliveries to and collections from the retail shop or the veterinary surgery hereby permitted shall not take place other than between the hours of 0800-1800 Monday to Saturday and at no time on Sundays or Bank or Public Holidays.

   Reason: In the interests of the amenity of adjacent residents and in accordance with Policy 33 of the Horsham District Planning Framework 2015.

10. **Regulatory Condition**: The veterinary premises hereby permitted shall not be open for trade or business except between the hours of 0800 and 1900 Monday to Sunday.

    Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

11. **Regulatory Condition**: The retail unit premises hereby permitted shall not be open for trade or business except between the hours of 07.30 to 22.00 Monday to Friday and 08.00 to 22.00 on Saturday and Sundays.

    Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

12. **Regulatory Condition**: The outside seating area as indicated on drawing no.1868 2110 Rev A shall not be used except between the hours of 09.00 to 20.00 daily.

    Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

Background Papers: DC/10/1314, DC/16/2835

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DEVELOPMENT MANAGEMENT REPORT

TO:	Development Management Committee South
BY:	Head of Planning & Environmental Services
DATE:	19 April 2011
DEVELOPMENT:	DC/10/1314: Demolition of existing buildings and redevelopment of the Abingworth Nursery site for 146 dwellings, comprising of open market dwellings, 51 dwellings for the 55 plus age group, 12 affordable dwellings, 20 key worker dwellings, village hall building (including shop and doctor's surgery), pre-school facility, community workshops/studio (957.5 sq metres), sports pitches and changing rooms, cricket pitch and pavilion, children's play area, access roads, open space and landscaped areas (including footpaths) DC/10/1316: Erection of new compost bunkers (1,697 sq metres) with aerated floors which will reduce odours, a replacement Gypsum and material store (2,800 sq metres), pasteurising tunnels (1,840.5 sq metres) and growing rooms (16,698.5 square metres) required for the cultivation of mushrooms, open space and landscaped areas (Including footpaths)
SITE:	Abingworth Nurseries / Sussex Mushrooms, Storrington Road, Thakeham
WARD:	Chanctonbury
APPLICATIONS:	DC/10/1314 & DC/10/1316
APPLICANT:	Abingworth Developments Ltd

REASON FOR INCLUSION ON THE AGENDA: Category of Development / / Departure Application / Member Request / Representations to speak / Officer referral

RECOMMENDATION: It is recommended that, subject to the completion of a legal agreement as set out in the report, both planning applications be DELEGATED FOR APPROVAL to the Head of Planning & Environmental Services in consultation with the Ward Members and the Chair of the Committee, in order to resolve the outstanding issues relating to contaminated land, air quality and nature conservation.

1. THE PURPOSE OF THIS REPORT

To consider the planning applications

DESCRIPTION OF THE APPLICATIONS

1.1 This report relates to 2 full planning applications made by Abingworth Developments Ltd. The current land ownership and tenancy arrangements for the two linked sites – Abingworth Nursery (referred to as Site A) and Chesswood Nursery (referred to as Site B) – are complex. However, it is understood that, in the event of planning permission being granted and Abingworth Developments Ltd triggers its option with the landowner (Beamsync Ltd), then this automatically triggers the purchase of the Chesswood site (Site B) by Thakeham Partnership LLP, the ultimate owner of Sussex Mushrooms Ltd. Both the sites are currently used by Sussex Mushrooms Limited for operations associated with mushroom growing.

1.2 The applications therefore are stated to seek “a comprehensive solution” to the future of the two sites through the submission of two associated planning applications for site A and site B respectively.

1.3 The planning applications involve the consolidation of the existing use on the Abingworth site (Site A) with the Chesswood site (Site B) to provide one modernised production plant on the Chesswood site with upgraded production buildings and material store (DC/10/1316). Further, an ‘enabling’ planning application is also made for a residential development on the Abingworth site (Site A), to replace the existing Sussex Mushroom Limited production facilities currently sited there and therefore providing the financial injection needed for the upgrading of the buildings and equipment for the Chesswood site (Site B).

1.4 A transport assessment was submitted relating to both applications. This concluded that traffic generation in the vicinity of both sites would increase modestly during the morning and evening peak travel periods but that the greater access to the proposed community facilities would have the potential to reduce traffic by creating easier access to education, health, recreation and retail facilities. It is also stated that at present there is a high degree of cross visitation trips between the existing Abingworth and Chesswood sites and by consolidating the mushroom activities onto the western side of Storrington Road, highway safety would be improved.

1.5 A diversion of the public footpath which currently runs through the Chesswood site (Site B) and appears often be in conflict with the wider commercial use of the site also forms part of the application.

1.6 Prior to the submission of the applications, both were the subject of screening opinions and it was confirmed by the Council that a formal Environmental Impact Assessment would not be required for development at either Site A or Site B.

DC/10/1314

1.7 This application seeks full planning permission on the Abingworth site (Site A) for the following:

- Demolition of existing buildings
- 146 dwellings, including 51 dwellings for over 55s (28 x 2-bed & 23 x 3-bed), 12 affordable dwellings (all 3-bed), 20 key worker dwellings (8 x 2-bed & 12 x 3-bed) and 63 open market dwellings (41 x 4-bed & 22 x 5-bed)
- Village hall including shop and doctor's surgery
- Pre school facility
- Community workshops/studio
- Sports pitches and changing rooms
- Cricket pitch and pavilion
- Children's play area
- Access roads
- Open space and landscaped area
- Allotments

1.8 It is stated that the 146 dwellings will be designed and built to the guidelines within the Code for Sustainable Homes to achieve Code Level 4 star.

1.9 The proposed dwellings are proposed as a mix of single storey, 2 storey and 2.5 storey heights. The proposed dwellings for the 55 plus age group, incorporating single storey bungalows and chalet style dwellings are proposed to be site close to existing dwellings fronting Storrington Road

1.10 Access to the site will involve the creation of a new junction to the proposed key worker development (on the western side of the road away from the rest of the residential development since development on the Abingworth site (Site A) includes a section of the south east corner of the Chesswood nursery site (SiteB)), while modification will be necessary to the existing northern and southern junctions to Abingworth Nursery from Storrington Road.

1.11 354 parking spaces would be provided to serve the residential development and a further 213 spaces to serve the new facilities, making a total of 567 spaces.

1.12 It is understood that the design of the village hall has been discussed with the existing Village Hall Management Committee Chairman and would accommodate existing user groups such as the Parish Council, W.I., Bridge Club etc. It is also anticipated that additional uses could be incorporated within the building such as badminton and other facilities such as a demountable stage, committee room and outside terrace

1.13 A proposed shop would be attached to the village hall which, it is stated in the supporting information, would reduce the number of car journeys to nearby settlements.

1.14 The existing pre-school operates from the village hall but its extent of usage is limited by the requirements of other users of the hall. In order that the pre-school can offer a full 5 day service, a dedicated facility forms part of the application.

1.15 A cricket pitch and pavilion is proposed and the size of the playing area was adjusted following discussions with the local cricket club, West Chiltington and Thakeham, who currently play in West Chiltington.

DC/10/1316

1.16 The modernisation of the Chesswood site (Site B) will include the construction of new growing rooms, a pasteurising plant and aerated bunkers located to the north side of the existing growing area. The ground level of the buildings is stated to be lowered by cutting into the existing sloping ground.

1.17 The proposed growing rooms will be situated in the northern part of the site, comprising over 16500 square metres. An aerobic unit, in the form of aerated bunkers amounting to 1697 square metres will be provided to the northern part of the site. This will replace the current composting method which is the main source of odours emanating from the site.

1.18 New pasteurising tunnels amounting to 1840.5 square metres are proposed as well as a replacement building for gypsum and material storage of 2800 square metres.

1.19 The existing site vehicular accesses from Storrington Road are to be retained with some amendments to vehicular egress in order to encourage traffic to travel south when leaving the nursery.

DESCRIPTION OF THE SITES

1.20 Both application sites are outside any built-up area as defined by the Local Development Framework (as indicated on the Proposals Map).

1.21 Both sites are currently occupied by Sussex Mushrooms Limited and are used for the production of mushrooms.

1.22 Site A, Abingworth Nursery, is situated on the eastern side of Storrington Road with the Abingworth Hall Hotel to the south west and a small ribbon development of residential properties fronting Storrington Road to the west. Across Storrington Road to the west are the entrances to High Bar Lane and Furze Common Road. The site area is given as 33.7 hectares of which the residential development would occupy just over a third.

1.23 The northernmost extent of the proposed development would be approximately 380 metres from the nearest properties in The Street and southernmost point of the development would be about 850 metres from the main part of development in Thakeham Parish to the south.

1.24 Site B, Chesswood Nursery, is situated on the western side of Storrington Road and is to the north of High Bar Lane and to the north west of the Abingworth site. The site area is given as 30.9 hectares and currently comprises some 30 buildings and hardstanding areas.

1.25 Since the proposed growing rooms would be located to the north of existing development, the extent of building on the site would be brought closer to The Street, about 150 metres from its junction with Storrington Road.

1.26 Residential dwellings in Dukes Hill are located to the northern boundary of the site while the southern boundary of the site adjoins the rear gardens of properties in High Bar Lane.

2. INTRODUCTION

STATUTORY BACKGROUND

2.1 The Town and Country Planning Act 1990.
The Council has a duty to determine the applications in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan currently comprises the South East Plan and the Local Development Framework Development Plan Documents.

RELEVANT GOVERNMENT POLICY

2.2 At a regional level, Members should be aware that the planning policy position has been changing with further changes proposed through the Localism Bill, which it is anticipated will be enacted at the end of this year. A successful High Court Challenge on the revocation of the Regional Spatial Strategies has meant that the South East Plan is still in place and is the most up-to-date lawful development plan guiding development in the District, including housing targets. However, a subsequent further High Court Challenge failed, so that the letter from the Chief Planning Officer, CLG, stating that the Government's intention to revoke the RSS's should be considered as a 'material consideration' in the determination of planning applications, can be taken into account. The Core Strategy (2007), prepared within the context of former regional guidance and the West Sussex Structure Plan, remains part of the development plan, though for the moment the housing targets are set by the South East Plan. As of today, the Council is unable to demonstrate a five year housing land supply under the requirements of the South East Plan; the position regarding the provisions of the Core Strategy is that there is a marginal surplus of housing land supply over the identified requirements under its provisions but not to an extent which can definitely override the requirement to consider favourably planning applications for housing, as set out in paragraph 71 of PPS3.

2.3 A core objective of the South East Plan is that a sustainable balance between planning for economic, environmental and social benefits will be sought. The most relevant policies of the Plan are RE3 (relating to Employment), H3 & H4 (Housing), BE5 (Village Development), T7 (Rural Transport), CC1 (Sustainable

Development), CC4 (Sustainable Design), CC5 (Ageing Population) & CC7 (Infrastructure).

2.4 Relevant Government guidance is contained within PPS1 (Sustainable Development & Climate Change), PPS3 (Housing), PPS4 (Planning for Sustainable Economic Growth), PPS7 (Rural Areas), PPS9 (Biodiversity and Geological Conservation), PPG13 (Transport), PPG17 (Sport & Recreation), PPS23 (Planning & Pollution Control), PPG24 (Planning & Noise) & PPS25 (Development & Flood Risk)

2.5 In addition, the Minister for Decentralisation issued a Written Ministerial Statement on 23rd March 2011 and this statement is capable of being regarded as a material planning consideration. The statement indicates that:

- The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.
- When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations – they should therefore:

(i) consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;

(ii) take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;

(iii) consider the range of likely economic, environmental and social of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);

(iv) be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessment of needs are no longer up to date;

(v) ensure that they do not impose unnecessary burdens on development.

The statement goes on to indicate that:

- In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they give clear reasons for their decisions.

RELEVANT COUNCIL POLICY

2.6 The following Core Strategy policies are relevant to the consideration of the applications: CP1 (Landscape & Townscape Character), CP2 (Environmental Quality), CP3 (Improving the Quality of New Development), CP5 (Built-up Areas and Previously Developed Land), CP8 (Small Scale Greenfield Sites), CP11 (Employment Sites and Premises), CP12 (Meeting Housing Needs), CP13 (Infrastructure Requirements), CP14 (Protection and Enhancement of Community Facilities and Services), CP15 (Rural Strategy) and CP19 (Managing Travel Demand and Widening Choice of Transport).

2.7 The following General Development Control Policies are relevant to the consideration of the applications: DC1 (Countryside Protection), DC2 (Landscape Character), DC5 (Biodiversity and Geology), DC7 (Flooding), DC8 (Renewable Energy & Climate Change), DC9 (Development Principles), DC18 (Smaller Homes / Housing Mix), DC19 Employment Site / Land Protection), DC20 (New Employment Development), DC22 (New Open Space, Sports & Recreation), DC25 (Rural Economic Development), DC26 (Replacement Buildings for Commercial Uses in the Countryside), DC35 (New Retail and Leisure Development outside the defined Town and Village Centres) and DC40 (Transport & Access).

2.8 The provisions of the Planning Obligations Supplementary Planning Document (SPD) are relevant to the consideration of the applications. The provisions of the 'Facilitating Appropriate Development' SPD provide some additional context relating to the residential development proposals, particularly in terms of scale, but it should be noted that the residential development planning application (DC/10/1314) has not been promoted under its provisions, and the applicants are not relying on the position set out in relation to the need to meet housing land supply requirements.

2.9 The Thakeham Village Design Statement is also relevant to the determination of the applications.

PLANNING HISTORY

2.10 Although there is an extensive planning history relating to operational development of the mushroom Company on both sites, in terms of previous planning applications, there is little that can be considered directly relevant to the current proposals. The most recent approval was for a Fuel Storage Building in August 2010 (DC/10/0860).

2.11 There is, though, a long planning policy/strategic issue relating to the sites including consideration of the full relocation of the mushroom growing business and redevelopment of parts of both the sites, as well as discussions with the mushroom business operators about a variety of forms and scales of development.

3. OUTCOME OF CONSULTATIONS (INTERNAL)

DC/10/1314

3.1 The **Spatial Planning Manager** has commented in respect of both applications as follows:

Introduction

3.2 An initial consultation response on the strategic planning considerations was originally submitted in December 2010 and this was referred to in the report prepared for the Development Control (South) Committee on 15th March 2011, but which was withdrawn from the agenda after it had been published. In the light of representations received on the consultation response and legal advice, it has been decided that it would be helpful to clarify the planning policy context and to expand the assessment of the planning application proposals against the policies of the development plan. This revised consultation response therefore replaces the original response of December 2010 and forms the formal comments of the Strategic Planning Manager on the planning application proposals.

3.3 The two planning applications relate to separate sites on either side of Storrington Road in Thakeham, although the sites are linked by virtue of the mushroom growing operations which have taken place on both sites for many years. For the purposes of consistency and understanding, the Abingworth Farm/Nurseries site, proposed for redevelopment under DC/10/1314, will be referred to in this Consultation Response as Site A; the former Chesswood site, now operated by Sussex Mushrooms as the main mushroom growing site, to the west of Storrington Road will be referred to as Site B. It should also be noted that the land ownership and tenancy arrangements for both sites are complex but, in essence, the current landowner of both sites is Beamsync Limited; they have agreed a contract with Abingworth Developments Limited (the applicant) for the purchase of the sites. The current operator of the mushroom growing business is Sussex Mushrooms Limited, which is at present a tenant on both sites.

Planning Policy Context

Development Plan

3.4 The planning applications should be determined in accordance with the development plan, which currently comprises the South East Plan and the adopted planning policies set out in the Local Development Framework, in the Core Strategy (2007) and the General Development Control Policies (2008). At a regional level, the planning policy position has been changing with further changes proposed through the Localism Bill, which it is anticipated will be enacted at the end of this year. A successful High Court Challenge on the revocation of the Regional Spatial Strategies (RSSs) has meant that the South East Plan is still in place and is the most up-to-date lawful development plan guiding development in the District, including housing targets. However, a subsequent further High Court Challenge failed, so that the letter from the Chief Planning Officer, CLG, stating that the

Government's intention to revoke the RSSs should be considered as a 'material consideration' in the determination of planning applications, can be taken into account and means that the weight that can be attached to the South East Plan policies has to be seen in this light. The Core Strategy (2007), prepared within the context of former regional guidance and the West Sussex Structure Plan, remains part of the development plan, though for the moment the housing targets are set by the South East Plan. As of today, the Council is unable to demonstrate a five year housing land supply under the requirements of the South East Plan; the position regarding the provisions of the Core Strategy is that there is a marginal surplus of housing land supply over the identified requirements under its provisions but not to an extent which can definitely override the requirement to consider favourably planning applications for housing, as set out in paragraph 71 of PPS3.

3.5 A core objective of the South East Plan is that a sustainable balance between planning for economic, environmental and social benefits will be sought. The most relevant policies of the Plan are RE3 (relating to Employment), H3 & H4 (Housing), BE5 (Village Development), T7 (Rural Transport), CC1 (Sustainable Development), CC4 (Sustainable Design), CC5 (Ageing Population) & CC7 (Infrastructure).

3.6 At the local level the following policies set out in the Local Development Framework Core Strategy and General Development Control Policies documents are particularly relevant to the planning application proposals: CP1, CP2, CP3, CP5, CP8, CP11, CP12, CP13, CP14, CP15, AND CP19; DC1, DC2, DC5, DC7, DC8, DC9, DC18, DC19, DC20, DC22, DC25, DC26, DC35 and DC40. In addition the provisions of the Planning Obligations SPD and of certain of the Government's policies, as set out in particular in PPS1 ' Delivering Sustainable Development'; PPS3 'Housing'; PPS4 'Planning for Sustainable Economic Growth', PPS7 'Sustainable Development in Rural Areas'; PPS9 ' Biodiversity and Geological Conservation'; PPG13 'Transport'; PPG17 (Sport & Recreation); PPS23 'Planning & Pollution Control'; PPG24 'Planning & Noise'; and PPS25 'Development & Flood Risk' are relevant. The provisions of the 'Facilitating Appropriate Development' Supplementary Planning Document (SPD) provide some additional context relating to residential development proposals, particularly in terms of scale, but it should be noted that the residential development planning application (DC/10/1314) has not been promoted under its provisions, and the applicants are not relying on the position set out in relation to the need to meet housing land supply requirements.

3.7 It is clear from an analysis of the proposals against the adopted planning policies that the planning application proposals in DC/10/1314 (Site A) are **contrary** to the provisions of the development plan, particularly in this context as expressed in the policies of the adopted Core Strategy, and that therefore there must be a justification by material considerations of sufficient weight to indicate a determination otherwise than in accordance with the development plan. Policy CP5 indicates that: "*Priority will be given to locating new development within Horsham town and the other towns and villages which have defined built-up areas in accordance with the hierarchy and criteria listed below*." The policy then defines a number of 'Category 1 Settlements', which are "*towns and villages with a good range of services and facilities as well as some access to public transport – capable of sustaining some expansion, infilling and redevelopment"* and a longer list of 'Category 2 Settlements', which are "*villages with a more limited level of*

services which should accommodate only small-scale development or minor extensions that address specific local needs." Thakeham (The Street & High Bar Lane) is defined within the latter category. The policy also indicates that: "*The emphasis will be on the re-use of suitable previously developed land (including the reuse or conversion of existing buildings) for housing*"; and goes on to state that: "*Local need in relation to Category 2 Settlements will be assessed on the basis of the contribution to meeting identified local requirements for housing, including affordable housing, the retention or enhancement of community facilities and services, and the extent to which the addition of new development will not reinforce unsustainable patterns*." In addition, although the residential development proposals have not been promoted under the provisions of the 'Facilitating Appropriate Development' SPD in order to meet housing land supply requirements, that document indicates that: "*Where the site adjoins a Category 2 settlement evidence of an identified local need justifying the development must be provided in accordance with policies CP5 and CP8 of the Core Strategy…"*and that: "*The scale of development adjoining a Category 1 settlement does not exceed around 150 dwellings, individually or cumulatively, to accord with the aims of policies CP1, CP3, CP8, CP9, CP15, CP19 and DC9. Any development adjoining a Category 2 settlement would be expected to be of a much smaller scale in accordance with policies CP3, CP5, CP8, CP15 and DC1, DC9.*"

3.8 The current proposals for residential development in DC/10/1314 (Site A) if looked at in isolation would **not**, therefore, **comply** with these planning policy or Supplementary Planning Document provisions by virtue of the nature and scale of the development involved (particularly adjoining a Category 2 settlement); the fact that the sites are not previously developed land (as they are occupied by agricultural/horticultural buildings); and because they would not in their entirety meet an identified local need, as defined, for a Category 2 settlement. Similarly, these proposals would not comply with the principles of Policy CP12 with regard to the affordable housing provision (see also below) or with the requirements of Policies DC1, DC18 and DC40, which essentially raise matters for the Case Officer relating to development management considerations and are not dealt with in any detail in this Strategic Planning Consultation Response. Moreover, the proposals would not in themselves accord with the essential basis of the Government's planning policies in PPS1, PPS3, PPS7 and PPG13 by virtue of the location of the sites and the type of land and buildings involved.

3.9 The considerations relating to the proposals in DC/10/1316 (Site B) in isolation are clearly different and it is not considered that these proposals are themselves not in accordance with the adopted planning policies. Indeed, it is considered that because of the benefits to the existing mushroom growing business and in terms of odour reduction they would, in principle, be in accordance with the intentions set out in Policy CP11 relating to existing sites ("*More efficient use should be made of existing sites and premises which are not fully used because they are unsuited to modern business needs*"); in Policy CP15 relating to rural enterprises and the potential for their further development either within suitable existing buildings or in replacement buildings ("…..*development should be appropriate to the countryside location and should*: *a. contribute to the diverse and sustainable farming enterprises within the District or, in the case of other countryside-based enterprises and activities, contribute to the wider rural economy…; and either b. be contained wherever*

possible within suitably located buildings which are appropriate for conversion or, in the case of an established rural industrial, within the existing boundaries of the estate; or c. result in substantial environmental improvement and reduce the impact on the countryside particularly where, exceptionally, new or replacement buildings are involved"); and in Policy DC25 relating to rural economic development and the expansion of existing sites or intensification of uses ("*proposals for development which delivers economic benefits to the rural area, and extension of existing commercial sites outside the defined built-up areas will be permitted where it relates to the needs of the rural economy…"*). It is, however, also necessary to assess these proposals against the more detailed development management requirements for such a development, including on the basis of the advice from Environmental Health officers on the merits of the proposed new bunkers as the most appropriate means to reduce odours; these issues are essentially matters for the Case Officer to weigh up rather than being strategic planning considerations.

3.10 In essence, therefore, the position is that the residential development proposals in DC/10/1314 (Site A) are clearly **contrary** to the provisions of the development plan but the proposals for the improvements to the mushroom growing business in DC/10/1316 (Site B) could be **acceptable**, subject to detailed planning considerations. However, it is important to recognise, particularly in making an assessment of the proposals in strategic planning terms, that the two planning applications are inextricably linked and have been submitted on the basis that they seek 'a comprehensive solution' to the future of the two sites. The proposals for Site A could not proceed, even in distinct phases, without the rationalisation involved on both sites going ahead and, more particularly, the additional funding towards the necessary improvements on Site B from the 'enabling development' on Site A; there would, therefore, be little value in supporting the improvements to the mushroom growing business alone when they were unlikely to be capable of being implemented. Furthermore, the key linkages between the two sites and the environmental improvements from the comprehensive approach embodied in the development proposals would be lost if they were considered entirely separately. It would accordingly be inappropriate from the strategic planning perspective to determine either of the two applications independently from the other and they should be assessed jointly against the policies of the development plan and any other relevant material considerations, including the 'enabling' approach and the economic development factors involved.

Proactive or Reactive Approach

3.11 In this context it is important to recognise that there is a long history to these sites and an important strategic planning context to the proposals, which relate particularly to the future of the mushroom growing business and the extent of the existing buildings, hard standings and associated areas within the two sites which are the subject of the planning applications. These considerations stem to a large extent from the spatial objectives of the Core Strategy and in particular objectives 5) and 6): "*To provide for business and employment development needs, particularly for existing local businesses;* and "*To meet the diverse needs of the communities and businesses of the District.*" (paragraph 3.17). In the light of these objectives and the longstanding concerns in this case, it has been established over a number of years in consultation with the local community that it would, subject to the details of

any approach and their relationship to the views of the local community, be preferable to take a proactive stance towards the future of the sites. This approach was originally agreed in principle between this Council and Thakeham Parish Council essentially in the interests of the continuation of the business, in view of the rural economic and employment significance of the mushroom growing works. The alternative approach of adopting a more reactive position was rejected. It was accepted that such a reactive approach would inevitably result following closure of the business, which would come about because it is unable to upgrade, and therefore compete, and so becomes unviable, with the consequent redundancy of the sites. As part of addressing this situation, in the discussions with the site owners (Beamsync/Abingworth Developments), Sussex Mushrooms (the mushroom growing business operator) and representatives of the local community (through the Parish Council) it was concluded at an early stage that a fundamental tenet of any comprehensive proposals would be that a significant proportion of the proceeds of any development on Site A would be allocated by the landowners to Sussex Mushrooms as operator of the site for investment in the mushroom growing facilities on Site B, in order to ensure that the business becomes a modern operation in line with all the necessary regulations and the requirements of the major retailers. In particular a key part of the planning application proposals is that funds from the residential development will be provided by the landowners to the business operators on the basis that they:

i) make capital investment in the mushroom business, primarily to replace the current composting method, which is the principal source of existing odours, with a modern aerobic unit, and also undertake improvements to the site generally;
ii) replace the facilities currently on Site A with a modern growing unit on Site B, which will meet the requirements of the major retailers, as part of a phased withdrawal from Site A and the consolidation of all mushroom production facilities on Site B; and
iii) are given the opportunity to purchase the freehold of Site B

3.12 Clearly on this basis it is essential that the necessary benefits to the continuation and improvement of the mushroom growing business are capable of being delivered and the viability of the overall scheme set out in the planning application is, therefore, a key consideration. It is also important to recognise that it was always made clear by the Parish Council that the general support for a proactive stance on behalf of the local community did not mean that it could be assumed there would be an implicit approval of any development proposals; it was made clear that it would be necessary to consult with the community on any proposals, which the Parish Council has recently done through a questionnaire just prior to the submission of the planning applications. The results of this questionnaire indicate that a majority of residents consider the scale of the development proposed too great and disagree with treating the site as an exceptional one through linking modernisation of the mushroom business or protection of jobs with a proposal to build houses. Whilst elements of the local community have shown support for the proposed provision of a new village hall and other facilities, the overall conclusion locally is that the price is too high. The community has concluded that on balance local needs would not be met by this particular proposal and this is an important consideration.

Viability Considerations

3.13 With regard to the viability considerations, in view of the significance of this as a material consideration, an independent assessment of the submitted Management Plan and Viability Study was commissioned in order to verify, or otherwise, the provisions set out in that report. The appointed consultants/accountants (Saffery Champness) were asked to advise the Council on the commercial viability of the Sussex Mushrooms business as a result of the enabling investment contribution (£2.7m) towards a wider planned capital expenditure investment programme (£8m). This independent assessment concludes that: "*If the capital expenditure programme is carried out in full, we consider that Sussex Mushrooms is a commercially viable business in the longer term*" (paragraph 2.1). However, the assessment also concludes that: "*there is a considerable risk that this funding cannot be obtained all through the use of bank debt so only an increased level of enabling investment would reduce the risk of future funding shortfalls, or the Company would need to find alternative sources of finance to bridge any funding gaps*" (paragraph 2.2). It goes on to state that: "*If the upgrades programme cannot be delivered in full the commercial viability of the business in the longer term could be impacted*" (paragraph 2.2).

3.14 It is considered that this conclusion highlights the fact that there will inevitably always be a significant element of risk involved with supporting an important local business through an enabling development mechanism. However, given the particular circumstances in this case, with the existing requirement to upgrade to meet specific needs, there is still an opportunity for the proposed enabling development to create the right basis for the business to be able to continue to operate for the longer term. Nevertheless, it should also be noted that, if the further funding cannot be obtained through the use of bank debt, any further enabling development to make up any shortfall in funding is most unlikely because a greater amount or scale of development would be inappropriate and will, therefore, be specifically precluded by the necessary S106 Planning Obligations.

3.15 The independent assessment also concludes that: *"….the residential scheme, with the level of enabling investment to be made, is not commercially viable as proposed*" (paragraph 2.3). It concludes that: *"….the scheme is only commercially viable with a land acquisition cost of up to £1.88m. Draft documentation provided to us, however, indicates that Abingworth Developments cannot, at present, acquire the land from the vendors for less than £7.25m*" (paragraph 2.3). This concern, however, now appears to be somewhat negated by the fact that a valuation has been agreed between the applicant (Abingworth Developments Limited) and the landowner (Beamsync Limited) which allows for the full package proposed, and also now that Croudace Homes have been confirmed as the prospective developers, which would appear to indicate that there is a viable residential development capable of implementation.

3.16 In the light of the conclusions of the report by Saffery Champness in a changing economic context, it was decided to commission the firm further in order to update the Council on the key issues and risks highlighted, in the light of new information, and so as to assess if there has been any material change to the original

conclusions. Saffery Champness therefore provided a Supplementary Letter dated 3rd March 2011, which concludes that the thrust of the original conclusions still remain but some of the key immediate risks to the enabling proposal appear to have been reduced. In particular, the letter indicates that: "*The key immediate risk that Sussex Mushrooms faces is in respect of obtaining a permit for its own on-site compost production by October 2011. If this permit is not obtained as a result of not being able to deliver an odour control solution, the viability of the business in the shorter term cannot be assured…*" (paragraph 3.1.3). However, the letter concludes that: "*… based on the information provided and subject to the granting of the permit to grow compost, we consider that the Company is commercially viable in the short term*" (paragraph 3.2.6). However, the letter also states that: "*The Company is not currently in a position to obtain guarantees of funding from lending institutions for the acquisition of the freehold land and these first phases of capital expenditure due to the uncertainties surrounding whether planning permission will be granted. However, the letter from a financing broker indicates that the risk of obtaining funding for the first two phases of the programme may have been alleviated somewhat, although not eliminated*" (paragraph 3.1.7). It goes on: "*The Company is also not in a position to obtain guarantees of funding for the subsequent phases of the programme…but in any event no absolute guarantees of bank funding could realistically be expected to be in place for the Company today for what could be a requirement in 2-3 years time*" (paragraphs 3.1.8 and 3.1.9). It is concluded on this basis that: "*Therefore, there is still a significant risk that this funding cannot be obtained from bank debt alone, in which case alternative sources of funding* (presumably additional enabling development, as addressed in paragraph 2.11 above) *would be required*" (paragraph 3.1.10).

3.17 Clearly this final conclusion is significant, and it is therefore important to understand that there is no clear cut case to allow development in conflict with the development plan on the basis that this 'enabling development' will definitely secure the long term future of the mushroom growing business in Thakeham and resolve the issues relating to the future of the sites. Nevertheless, without any additional funding for the necessary improvements, it is clear that the business will fold due to its inability to meet the requirements for such a business (both for the permit for the composting operation and for the modern facilities to be able to compete successfully). What is required, therefore, is a careful and balanced assessment of all the relevant material considerations relating to this unique case and the relative implications of any decision for or against the proposals. It should also be noted that, in pure strategic planning terms, it is certainly the case that there could be no positive recommendation in favour of planning permission unless it is subject to a S106 Agreement which (amongst other things) strictly relates to the enabling development to the works required on Site B (see also below).

3.18 In support of the proposals overall, it should be recognised that the Core Strategy Spatial Objectives 2, 5 and 6 indicate that business development needs, particularly for existing local businesses should as far as possible be addressed; there is, therefore, a key planning policy principle which can relate to the very specific economic circumstances in this case, with regard to the mushroom growing business as a rural business and significant employer, and the condition of the existing sites, with the potential environmental improvement which would result from the package of measures proposed. The potential for an exceptional approach to be

taken in certain circumstances was recognised in the preparation of the Local Development Framework Core Strategy, within the provisions of Policy CP8. That policy relates primarily to Small Scale 'Greenfield' Sites as reflected in its title and establishes that: "*Limited provision may be made in the Site Specific Allocations of Land Development Plan Document for small scale extensions to the smaller towns and villages to meet identified needs and assist in the gradual evolution of these communities by enabling development which meets their needs but does not fundamentally undermine the qualities which make them or their countryside setting unique or special*". However, the policy then goes on to state that: "*Beyond this provision, permissions will only exceptionally be granted where local, social or economic needs arise or where development would result in substantial environmental enhancement compatible with the character of the location*". This important policy provision is part of the overall approach aimed at meeting particular needs within the District; it provides a basis to go **beyond** the normal provisions made for small scale 'greenfield' sites (those less than 150 dwellings and, therefore, not 'strategic' in the context of the District), in terms of both location and scale relative to the type of settlement, because of the specific recognition that exceptional circumstances might arise for a number of reasons justifying a different philosophy. The policy provision was in fact supported by the Inspectors who examined the soundness of the Core Strategy; in their report on the Core Strategy Examination they conclude:
"….to provide flexibility the second sentence allows, exceptionally, for the positive consideration of beneficial proposals which arise outside the context of the DPD. We consider this to be a satisfactory way to achieve the reasonable flexibility sought under Test 9, and read in the context of the Core Strategy as a whole it cannot be regarded as a loophole." (paragraph 8.4)

3.19 In the case of these planning application proposals, there is clearly an argument that the economic needs which arise in terms of the retention of 473 (currently) jobs and the continued operation of an important rural enterprise is an appropriate justification in the light of the terms of this policy; in addition, the development as a whole would result in substantial environmental enhancement by virtue of the redevelopment of the extensive and unsightly Site A as well as improvements to Site B. It is perhaps more debatable whether there are also local or social needs which arise that the proposals address but, bearing in mind that the Parish Council in principle acknowledges the potential benefits of a proactive approach and the positive benefits to the local community that the right package of development and related facilities would bring, there is potentially a sufficient basis to be able to conclude that the balance is in favour of certain local and social needs being met as well as the clear economic needs indicated above.

3.20 It should also be noted that it is considered that Policy CP8 supplements, and may override, the provisions of Policy CP5. As indicated earlier, the latter policy indicates that Thakeham (The Street & High Bar Lane) is judged to be one of a number of Category 2 settlements, which are villages with a more limited level of services which should accommodate only small-scale development or minor extensions that address specific local needs. The additional flexibility provided by Policy CP8 enables other factors, such as social or economic needs to be taken into account including in Category 2 settlements which, as identified above, is the case in this instance. Similarly, whilst in purely housing land supply terms the provisions of the

'Facilitating Appropriate Development' SPD would normally preclude a development of this scale adjoining a Category 2 settlement, in this case it is more a question of the necessary scale of development to ensure a viable scheme which achieves the intended objectives as well as the nature and extent of the existing 'built' site at Site A (despite not falling within the definition of 'previously developed land') which determines the scale of development which might be appropriate (see additionally below).

3.21 Also as indicated above, another material planning policy in relation to the planning application proposals is Policy CP15, which encourages sustainable rural economic development in order to deliver economic, social and environmental benefits for local communities. It indicates that development which maintains the quality and character of the local countryside whilst sustaining its varied and productive social and economic activity will be supported in principle. The policy goes on to require that any development should be appropriate to the countryside location and should contribute to the diverse and sustainable farming enterprises within the District or, in the case of other countryside-based enterprises and activities, contribute to the wider rural economy and result in substantial environmental improvement and reduce the impact on the countryside particularly where, exceptionally, new or replacement buildings are involved. An assessment of the overall proposals against these policies, in particular the comprehensive approach and the support for the enhancing the mushroom growing business, potentially enables a conclusion to be drawn that the proposals in principle could comply with the policy's provisions and on this basis may well be worthy of support.

3.22 The approach to the rural economy set out in Policy CP15 is also supported by the provisions of Policy CP11, as indicated earlier, which seeks to ensure the provision of a range of locations, types and sizes of employment premises and sites to meet the needs of the local economy, particularly having regard to the needs of specific sectors of the business community. The policy goes on to indicate that more efficient use should be made of existing sites and premises which are not fully used because they are unsuited to modern business needs. These provisions are important to the planning application proposals which are directed at supporting a very specific and specialist sector of business in mushroom growing and which, through the improvements embodied in the proposals, makes more efficient use of the existing land at Site B (and which is currently unsuited to modern business needs).

3.23 It is also the case that Policy CP14 encourages new or improved community facilities or services in order to enrich the overall quality of life within the District and, particularly, where they meet the identified needs of local communities. The planning application proposals include the provision of a number of new or improved facilities, including a new village hall and recreational space with associated facilities.

3.24 As a counter view of the proposals, it is equally possible to argue that the proposed development overall is contrary to the adopted planning policies in view of the significant departure involved with the residential development and that there are not sufficient material circumstances to override such conflict. Moreover, it can be argued that the scale of development in an unsustainable location is inappropriate and there is insufficient evidence to justify the proposed 'enabling development', either in itself or in terms of the scale of development involved. The independent

assessment in terms of viability has clearly identified the shortfall in funding from the 'enabling development' for the necessary improvements and the significant risk that the full funding required cannot be obtained from bank debt alone. There can be no certainty that a viable business will be guaranteed as a result of the enabling development. However, in addressing these arguments, it is possible to conclude that the understandably cautious conclusions of the independent assessment need not in themselves be the prime determinant of whether the scheme should be accepted; it is sometimes necessary to take a broader view, and even accept the risks involved, in order to at least give the potential to achieve the desired objectives. It is certainly clear that, without the overall scheme and the enabling investment, the existing business has no future and the sites will become redundant as a horticultural operation. In such a situation, there will inevitably be other problems created, particularly in terms of a likely future more piecemeal usage, with possible alternative uses being introduced. The nature of the existing buildings, the established land ownership (by a separate company, which has invested in the sites as an asset and would no doubt seek to maximise that asset) and the land value considerations (including the current registered land charges by 'mortgagees' on some of the land, as well as the price paid for the sites by the current landowner and the expectations of the return involved) will have some bearing on the future use position and mean that the sites are unlikely to lie completely inactive for very long. Whilst the future use of the sites can be controlled by the planning process and these factors may, therefore, be considered irrelevant in this context, experience demonstrates that in practice given the prevailing planning policies nationally and locally, for example on the conversion of agricultural and rural buildings, a variety of proposals for re-use may be difficult to resist, either temporarily or permanently.

3.25 If the 'enabling' argument is to be sustained, it will be important to be clear on the unique circumstances in this case and the principles which might be applied to such a linked development. There is little relevant Government guidance on such issues, although PPS5 does contain a policy (Policy HE11) relating to whether the benefits of an application for enabling development in relation to the future conservation of a heritage asset might outweigh the disbenefits of departing from the development plan or from national policies. Clearly there are limitations as to the relevance of the policy provisions as there is not a heritage asset involved here and nor are the existing sites of any visual or architectural value. The residential development cannot be held to harm the significance of the 'asset', which in this case is essentially the mushroom growing business; indeed, the business will not only not be harmed by the 'enabling development' but will in fact be improved by the modernisation involved. If the 'asset' in this case is also taken to apply the built area of Thakeham and its countryside setting, that similarly is not harmed because of the extent and condition of the existing site (Site A) which is already part of that setting; on the contrary the development would improve the existing appearance and setting for the village as well as the facilities for the community as a whole. The enabling development in this case will also provide the opportunity for the mushroom growing business to have a long term future, although it cannot in itself guarantee it. It is also necessary to resolve the current problems of the business on its existing site; it is not purely about the present owner because the problems for the mushroom growing business in this location have existed for some time well before the present company took control, as evidenced by the long history of discussions about the future of the sites. Similarly, there is no other source of funding available; the

company has secured a grant from SEEDA for the proposed CHP plant (a Fuel Storage Building was permitted by the Council in August 2010 under DC/10/0860) and this is the maximum funding that could possibly be available. Moreover, it is clear that at least this level of development is necessary to provide the basis to secure the future of the business, given that even this scale does not generate sufficient funds to undertake all the necessary improvements and the residential development itself is only just capable of being viable (as indicated by the fact that Croudace Homes is content to proceed on the basis of the package as now presented – see paragraph 2. 12 above). It is also the case that the Council has previously taken a positive view about the needs of a rural business, where they could not otherwise be met (albeit at a different scale and context), with the expressed support for the 'enabling development' at the Kinswood Eggs sites in Brooks Green.

Affordable Housing

3.26 Policy CP12 provides that residential developments of 15 dwellings or more will be expected to include an appropriate proportion of affordable homes, with the target being 40% of the total. The policy provisions are, however, qualified by the supporting text (paragraph 4.65 of the Core Strategy) which indicates that the 40% provision will be regarded as a 'baseline' on the basis that developers will need to demonstrate why the particular targets could not be met if that were the case. The affordable housing provision being made in this case (strictly 12 affordable units, but the proposed 20 'key worker' housing units are capable of making a contribution as 'local worker' dwellings by virtue of their direct relationship to the mushroom growing business or for other local workers and the discounted market rents involved) is clearly less than 40 % but it is specifically related to the overall package and the viability of the proposals as a whole. The Council's Housing Development & Strategy Manager has commented on the affordable housing provision from his perspective but in planning policy terms, the scheme in this case given the specific circumstances is capable of being considered positively, on the basis of the provision being made and also the overall viability considerations.

Scale of Development

3.27 A key issue for the local community, and potentially in planning policy terms, has been the scale of development involved, primarily in relation to the residential component but also to an extent in relation to the expansion of the mushroom growing business. There is no set definition of 'small scale development' with regard to new housing but, as indicated by the requirements of the 'Facilitating Appropriate Development' SPD, it would not normally be expected that development in such a location (adjoining a Category 2 settlement) would extend to 146 new dwellings or expand the existing community by the extent involved. However, as indicated above, the physical context for the sites with their current use and scale of buildings is itself a material consideration and it is important in the context of the proposals as a whole not to be too focussed on the actual number of houses involved; it is rather a question of the amount of development necessary to make the overall scheme viable (and the 146 dwellings is necessary to generate sufficient land value to support the overall scheme – although some concern has been expressed about the residential development viability even at this level, the potential involvement of a

prospective housebuilder on this basis removes some of those doubts) and the environmental enhancement which will result from the removal of existing large scale/poor quality buildings and associated hardstanding areas, which in practice detract from the rural setting far more than appropriate residential development will do. The residential development off High Bar Lane in recent decades has itself been assimilated into the community and there is no reason why the 146 new homes proposed cannot equally complement, rather than threaten, the structure and rural setting of the village, provided the quality of development is appropriate, which is capable of being the case (subject to any detailed views of the Case Officer and other consultees on design and layout considerations). A reduction in the number of dwellings involved, even if possible in terms of the overall viability of the scheme, would not necessarily reduce dramatically the 'land take' or lessen significantly the physical effect of the development as a whole. The number of dwellings is not in itself normally the sole determining factor in planning policy terms but rather it is the analysis of the development package as a whole, its relative impacts, and the contribution of the residential development to the overall scheme which should be the priority in assessing the proposals. On this basis, the scale of residential development involved can be considered acceptable and need not be an overriding reason for rejection of the proposals.

3.28 The scale of new buildings for the improvement of the mushroom growing business, as well as the location of the new bunkers, etc is essentially a reflection of the complex needs of the business and its efficient operation, as well as moving from the current inappropriate layout of the site with less efficient buildings or operations to a modern growing unit. There is no inherent reason in planning policy terms to oppose either the scale or location of the new buildings proposed, provided they meet with the necessary environmental standards and requirements from the Environmental Health Officers' point of view. Indeed, Policy CP15 supports exactly such an approach. There is no specific planning policy in place to protect high grade agricultural land in its own right, particularly when the additional land involved for the new bunkers, etc will enable the modernisation and enhancement of an important rural business. It would be inappropriate to insist on a less efficient layout and operation, purely to avoid any additional 'greenfield' land take.

Sustainability of Development

3.29 The concept of sustainability in relation to development in rural areas has been widely interpreted in recent years to relate purely to transport sustainability, when in fact the concept should be applied on a much wider basis to encompass all aspects of sustainability. In this instance it is likely to be the case that the majority of journeys from the new residential development, particularly for travel to work and for shopping, etc are likely to be made by the private car (as reflected in the comments by West Sussex County Council) but this has to be balanced against other interests in relation to the enhancement of facilities within the community and the improvements to, and maintenance of, the mushroom growing business; in the latter case, the closure of the business if it is not capable of being improved would be likely to result in many more journeys and 'food miles' for the transport of mushrooms into the country/area, as well as the potential sustainability considerations relating to the alternative future uses of the redundant horticultural sites. A broader view of sustainability factors based on these considerations, relating

to the role the business currently plays in local mushroom production with the alternative of more international imports and the future alternative usage of the sites, will be likely to lead to a different conclusion than the more limited local and transport specific application of such principles; this approach clearly, therefore, needs to be weighed in the balance.

S106 Planning Obligation Requirements

3.30 Given the unique nature of the proposals embodied in the two planning applications, it is essential that any support for, or approval of, the applications tied to the necessary provisions within a S106 agreement. It should be noted that the Community Infrastructure Levy (CIL) came into force on 6th April 2010. CIL is a new charge which local authorities are empowered, but not required, to levy on most types of development in their area. The proceeds of the levy will provide new local and sub-regional infrastructure to support the development of an area in line with the prevailing development plan. The Council is currently reviewing the Community Infrastructure Levy Regulations 2010, updates and the associated guidance before making a decision whether to apply the charging regime to new development in the District. The guidance note produced by the Communities and Local Government Department – 'Community Infrastructure Levy – An Overview' states:
"*From 6th April 2010 it will be unlawful for a planning obligation to be taken into account when determining an application for development: or any part of a development, that is capable of being charged, whether there is a local CIL in place or not, if the obligation does not meet the following tests:*
a) necessary to make the development acceptable in planning terms;
b) directly related to the development; and
c) fairly and reasonably related in scale and kind to the development."

3.31 The key principles of the intended planning obligation in this case are necessary in order to make the development acceptable in planning terms. In particular, the two applications need to be linked together in one overall S106 Agreement, which deals with the necessary linkages between the two proposals so that the residential element on the Site A cannot proceed beyond Phase 1 without first having ensured that the future of Site B and the intended injection of capital into the Sussex Mushrooms business (£2.7m) has been guaranteed at the appropriate stages in relation to the required phases of the necessary improvements. Without such linkages and guarantees, the proposed residential development would not be acceptable.

3.32 Similarly, it is also necessary in order to make the development acceptable in planning terms to ensure that the scale and nature of residential development involved on Site A is limited to that set out in the proposals (so that the development does not increase and become 'strategic' in scale); any potential future expansion of development must, therefore, be precluded by the control of land (open space or landscaping fringes) on the edge of the proposed development. In the same context, as far as the mushroom growing business is concerned it is important to strike a balance between unreasonably fettering the business through constraints on future operations or control of Site B and ensuring that the site is only available for appropriate horticultural or related uses, and cannot be redeveloped for more intensive non-agricultural uses in the future (which would increase the overall scale

of development) should the mushroom growing business fail for whatever reason. It is consequently necessary, in order to make the development acceptable in planning terms, for there to be provision within the S106 Agreement to limit any future use of the site/buildings to the existing/permitted buildings and hardstanding areas in order only to provide the potential to meet the requirements of the mushroom growing, or other horticultural, business in the future.

3.33 The S106 Agreement also needs, in order to make the development acceptable in planning terms, to ensure that the community facilities which are set out in the application and which are proposed as part of the development of Site A are actually provided in accordance with an agreed phasing plan linked to the occupation of dwellings and that they are maintained as such facilities for the benefit of the local community in perpetuity, or until other suitable facilities have been provided in the future; there is likely to be a need to seek appropriate commuted payments for the maintenance of open space/recreation facilities and community buildings. The S106 Agreement additionally needs, in order to make the development acceptable in planning terms, to ensure the provision of the affordable housing through an appropriate Registered Provider in the normal way, with the nomination rights giving the priority to local residents from within Thakeham Parish, or in the event of no such suitable occupants, from the immediately adjoining Parishes (the normal 'cascade' approach). There needs to be a separate provision relating to the intended local worker housing that ensures that such housing is aimed at particular groups of people, including employees of Sussex Mushrooms or any successor, rather than being purely 'open market' housing for purchase or rent, although these units will not be transferred to and Affordable Housing Provider.

3.34 All of these provisions are directly related to the development because of the comprehensive development approach embodied in the two planning applications and the key linkages involved. They are also fairly and reasonable related in scale and in kind to the development because of the necessary requirements to provide the opportunity for the mushroom growing business to continue to operate and the relationship between the scale of development and the viability of the development, as well as the 'enabling' provisions and the nature of the facilities required for the local community being created.

3.35 The overall package of requirements in connection with the development needs to be designed to secure the comprehensive development or improvement of the two sites with the delivery of the key linkages and necessary infrastructure or facilities in line with the Planning Obligations SPD. It is considered that planning obligations based on these principles, subject to the precise details, will be capable of meeting the tests set out in paragraph 3.1 above and also the tests set out in Circular 05/05 Planning Obligations.

Conclusions

3.36 It is clear that the residential development planning application (DC/10/1314) is not in accordance with the development plan and that it must therefore be justified by material considerations of sufficient weight to indicate that a determination otherwise in accordance with the development plan is appropriate. The proposals for the improvements to the mushroom growing business (DC/10/1316) are, however, in

principle in accordance with the development plan, but they cannot be considered in isolation. In this context, the assessment of the two planning application proposals jointly against current planning policies is inevitably not straightforward, given the complex and unique nature of these proposals. However, it is clear that the economic considerations are an important material factor both in terms of the spatial objectives set out in the Core Strategy and from a broader perspective. There remain undoubted risks involved in supporting an 'enabling development' which cannot in itself guarantee the long term future of the mushroom growing business, but equally there would be continued and greater uncertainty about the future of the sites if the development package were not to be agreed.

3.37 These factors are important material considerations affecting the decision on the planning applications. A balanced and careful consideration of the proposals in the context of the intended proactive approach towards the future of the sites and the mushroom growing business leads to a conclusion that, from the strategic planning perspective, and subject to the appropriate safeguards and the terms of the necessary S106 Planning Obligation, the planning applications are capable of being acceptable in principle. Indeed, on balance it is considered that there is sufficient justification to indicate that a determination of the planning applications otherwise than in accordance with the development plan is likely to be appropriate and that the proposals could be supported as being in the best long term interests of the local community and the District as a whole. The objections received from individuals and organisations within, or representing, the local community are understandable in view of the history of proposals on these sites and the complexity of the situation but it is considered that a fresh view can now be taken of the merits of the proposals and the compliance with the objectives and principles of the Core Strategy as a whole, so that there is a clear basis for a positive way forward which will provide the opportunity for enhancement and long term benefits, and avoid the challenges of possible far less appropriate forms of re-use or development on the sites in the future.

Other Internal Consultations

3.38 The **Access Forum** has commented that some of the dwellings should conform to lifetime homes standards and where possible the dwellings for over 55s should have access to storage and a charging point for mobility scooters.

3.39 The **Building Control Officer** states that some of the supporting documentation appears to commit the development to achieve Code Level 4 to all of the dwellings on the site but this is inconsistent with other submitted information. Overall, the development shows a good commitment to environmental issues.

3.40 The **Design & Conservation Advisor** has made a number of comments in relation to the application:

Original Comments

3.41 The proposals are for 146 dwellings and community facilities, adjacent to the Storrington Road, in Thakeham. For this application, the material planning policies

and documents affecting design are CP3, DC9 and The Thakeham Parish Design Statement SPG.

3.42 It is wise to understand the character of Thakeham and the area of the application prior to designing a proposal and the Design and Access statement (DAS) includes a brief area and site assessment. It correctly pin points the historic core of the area and identifies local character, in terms of building material and architectural style. What is missing however in an understanding of how Thakeham has developed over the years and what building and layout typologies are common in the area. This would have included the linear settlement of The Street and the suburban settlement around High Bar Lane and Furze Common Road.

3.43 The Street is an attractive area of historic and some modern restrained development. The Street forms this historic core of Thakeham as is also a conservation area. The amount of the existing development, as well as the details of building types, scale, form, and architectural style adds to the character of the area and can be categorised as being predominantly rural in style and design. As per the opinion in the Thakeham Parish Design Guide SPG, the High Bar Lane development, although has some practical qualities, the design, including the suburban layout, including a number of cul de sac, pavements, street lighting, layout, and architectural design is particularly suburban and unsympathetic to the character of the parish.

3.44 Turning to the proposed development of 146 dwellings, the layout, with cul de sacs, pavements, and the design of the roads and layout of dwellings around the site is also suburban in style. As this is a predominantly rural location, with a countryside edge and views of the South Downs, this suggests the layout is not appropriate for this location.

3.45 It is noted that at 3.5 in the DAS, the design principles for the scheme have been stated. Some of the elements of these principles have been carried through to the design and layout stage, with positive outcomes. For example, the two central spaces (the cricket pitch and pond/open space/LEAP area) have been well integrated into the layout and should result in largely successful spaces. There is a defined hierarchy of streets and connections which aids legible and permeable movement; the general 1.5, 2-2.5 storey scale of the buildings is acceptable. However there are some specifics of the layout of the proposed development that are concerning: These are:

- Suburban estate approach to layout and positioning of buildings in relation to the street around the main spine road;
- Layout of the Over 55s housing; leads to a back to front usage and activity; does not adequately address the main street.
- Layout and design of the “key worker housing”; generating a cramped and overdeveloped urban character and environment. Proximity to large industrial/agriculture sheds, dominating the area.
- Grouping of tenures together, instead of the PPS3 recommended “pepper potting”& non-tenure blind architectural style and layout; this can lead to ghettoed style atmosphere and separation of different parts of the community

- The proximity of the playing pitches to the countryside and arising issues from floodlighting affecting the rural character of the countryside
- The inward looking nature of the development; close boarded fences, hard boundary treatment facing the countryside on the eastern edge
- The footpath to the south and east.west not being overlooked adequately by active elevations of buildings
- The design of the layout of the workshops and parking not being overlooked or integrated into the wider scheme and creating a possible environment for antisocial behaviour
- Lack of variation in house type and style of the detached properties, adding the suburban estate character.
- Lack of variation in street scene to the detached properties area.
- Generic, rather that location specific Sussex vernacular style, uncharacteristic detailing including boxed eaves, some details of dormers, windows, bulk and scale of roofs. Lack of variation in materials (only tiles, slate and bricks utilised, where render and barge boarding, and local sandstone is also common)

3.46 In conclusion, as submitted, the layout and architectural details of the scheme fall short of meeting the requirements of CP3, DC9 and largely do not follow the advice of the Thakeham Parish Design Statement SPG.

Should however the application be permitted, it is requested that details of materials and boundary treatments are required by way of condition to be discharged prior to commencement of development.

3.47 Following the submission of further information from the applicants, the Design & Conservation Advisor concluded:

With regards to comments on CP3 and DC9, as well as the Thakeham Parish Design Statement, the specific parts of the policies which I am of the opinion the application does not yet meet are:

CP3-
"b. complement the varying character and heritage of the district particularly as defined in village and parish design statements, Horsham Town neighbourhood character assessments, area of outstanding natural beauty management plans or other design statements produced to indicate principles of good design, applicable to locally distinctive areas. "

DC9 -
C. ensure that the scale, massing and appearance of the development is of high standard of design and layout and where relevant relates sympathetically with the built surroundings, open spaces, and routes within and adjoining the site, including impact on skyline and important views
D. are locally distinctive in character, respect the character of the surrounding area (including its overall setting, townscape features, views and green corridors) and where available and applicable, take account of the recommendations and policies of the relevant design statements and character assessments.
E. use high standards of building materials, finishes and landscaping; and includes the provision of street furniture and public art where appropriate.

3.48 With regard to the Parish Design Statement, the need for new facilities should not outweigh the need for an acceptable design. The application should meet the requirements of the all relevant policies within the design statement, not just the need for new facilities.

3.49 The Design & Conservation Advisor subsequently confirmed that having looked at the proposal in terms of its impact upon the Thakeham Conservation Area and those listed buildings closest to the site, it was not considered that any objection could be raised to the proposal on these conservation area and listed buildings grounds alone.

3.50 In response to the comments at paragraph 3.45 above, the applicants submitted amended plans, re-orientating 5 of the proposed over 55s dwellings and making a number of amendments to the visual detailing of a number of house types, in an attempt to provide greater variation in the scheme. The applicant was not willing to amend the overall layout of the proposal, however.

Comments on amended plans

3.51 Following the receipt of amended plans as detailed in the paragraph above, the Design & Conservation Advisor made further comments to be read in conjunction with those made earlier. She stated:

3.52 A meeting was held between HDC, the applicant and their agents including architects on the 14th March 2011. At this meeting the design issues were discussed, including the layout, grouping of tenures, overlooking and security issues and architectural design. The applicant was clear that there would be no amendment to the scheme regarding the layout and design/grouping of tenure issues as previously raised.

3.53 The architect and myself then discussed amendments to architectural details, including materials, design of buildings, boundaries and orientating buildings to help overlook footpaths to provide natural surveillance. Amended plans addressing these issues have now been received.

3.54 Turning to the amended plans, the introduction of fenestration to some of the side walls of the dwellings is welcomed. This will help provide natural surveillance over the footpaths within the site. Although an improvement, there are still substantial lengths of paths that are fronted by rear and side boundaries to the properties, with minimal overlooking and natural surveillance.

3.55 To address previously raised issues regarding materials and architectural design, the plans have been amended to reflect a mix of vernacular materials. This has been most successful on the key worker and affordable units and has helped to break up the appearance of the elevations. Introduction of render and alternative porch, window and door design is welcomed too.

3.56 Welcome amendments have also been made to the village hall design and a design for the “car barns” is also a positive step.

3.57 No amended or further details have been submitted regarding details for boundary walls/fence or hedging. No details on street scenes showing the impact of the amendment materials and small design changes have been submitted. The Design & Conservation Advisor subsequently confirmed verbally that the requirement to submit such details can be controlled by condition.

3.58 Notwithstanding these amendments, there still remains an objection to the application, as discussed in previous comments over the matters of layout, including tenure grouping. It is appreciated however, that there are a number of factors that need to be considered on balance by the LPA, however in my professional opinion, the main aspects of urban design, still do not meet the criteria in Horsham District Council's design policies, specifically those contained within DC9 and CP3.

3.59 If contrary to the above advice, the application be approved, please request samples of materials and details of windows and doors, to be agreed in writing by the LPA prior to commencement of development.

3.60 The **Engineering Section** comments that the Drainage Strategy proposal described in the Flood Risk Assessment (FRA) both covers and reflects the current Planning Policies, Legislative Frameworks and guidance from the Environment Agency, though it should be noted that the Horsham District Council Strategic Flood Risk Assessment (SFRA) is not referred to in either the FRA or the Design and Access Statement submitted with this application. Until detailed drainage design schemes are submitted there are no further comments to make on the application.

3.61 The **Housing Strategy & Development Manager** comments that:

"Housing officers note the comments made by the Spatial Planning Manager in responding to the application. It is clear that in strategic planning terms, the continuation of the Sussex Mushrooms business and its impact on local economy and employment is a significant concern.

The applicant proposes that only an increased level of enabling development will reduce the risk of future funding shortfalls and the potential closure of the business and subsequent redundancy of the site.

The overall affordable housing offer stands at 22%; still only just above half of the 40% target set out in the Council's Core Strategy. However, in view of the reasons stated above, Housing Officers accept that in this specific case, the level of provision is acceptable.

The affordable housing offer is in two parts:

The applicant proposes 12 x 3 bed houses as 'affordable dwellings'. These homes will be delivered through a Registered Provider and the applicant is currently discussing terms with Moat Housing Association. Because of uncertainty over funding, the final tenure mix will be agreed with the Council in due course. A legal

agreement will define the qualifying criteria for occupying the homes. A cascade will operate, giving priority to those in housing need from Thakeham Parish.

The Local Worker Dwellings are to be managed and allocated differently, and it is important to understand how these units comply with the definition of affordable housing set out in PPS 3:

Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should:
– meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
– include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

The Local Worker Dwellings will be owned and managed by the applicant, and let on assured shorthold tenancies at 80% current local open market rent levels in perpetuity. Priority will be given to workers at the mushroom farm, then to those from Thakeham Parish and neighbouring parishes.

Housing Officers are satisfied that the Local Worker Dwellings do meet the criteria for intermediate affordable housing set out in PPS3. As the homes will not be funded by public subsidy, there is no obligation on the part of the owner to accept nominations from Horsham District Council. However, they will meet local housing need, offering discounted rented accommodation in perpetuity."

3.62 The **Landscape Architect** originally commented:

I concur with the comments expressed by the County Council Landscape Architect (set out in the County Council response later in the report) and the issues are all covered with additional ones below. At the moment without some significant revisions I would have to record an objection to the scheme on landscape grounds, all be it none of the issues are necessarily irresolvable and in principle there is an opportunity through the development to enhance the landscape of the site.

Key Issues:

- I object to the location of at least 2-3 of the southernmost houses on the road to the proposed allotments because they are likely to be visible from the south breaking the line of the sandstone ridge. It is essential this does not occur- reduction of 2 -3 dwellings will be needed. Cross section information should be provided to demonstrate how this can be avoided.

- I object to the adverse landscape impact that of potential visual clutter from the proposed allotments on the brow of the ridge, unless there is a commitment to a management agreement etc that prevents the use of sheds etc. An alternative location within the land area may be necessary

- I object to the very close proximity of the proposed workshops and preschool building to the existing pond which will have an adverse landscape character, setting and visual impact.

- I object to the loss of a number of mature trees along Storrington Road to facilitate the key worker housing changing its semi wooded character and the inadequate width of proposed planting to screen the factory buildings from housing backing onto it. A reduction in the number of dwellings eg to a single line of houses is likely to be necessary to take account adequately of both these issues.

- New native tree belts and hedgerows proposed are welcome but there is in a number of locations where there is poor connectivity with existing landscape features to enhance the green infrastructure of the site. There also needs to be additional woodland belt/shaw planting on the north-west and western boundaries of the site to assist in integration of the proposed development into the wider area. (A clearer colour notation to adequately distinguish existing landscape features and proposed types of planting is also needed)

Other issues needing to be addressed:

- Site entrance- Whilst a low key landscape approach is desirable it should still be locally distinctive in planting and hard materials- consideration needs to be given to how this will be achieved

- Open space and pond- Areas for provision of wildflower seeding, not just amenity grassland should be noted on the landscape drawing. The pond viewing area is excessive in size. A LEAP play area needs to be properly integrated into the landscape of an open space such as this- whilst this can be the subject of further detailed design the landscape strategy should at least indicate additional structure planting to achieve this. It is strongly recommended that the LEAP is a natural play area with well designed natural play features that will provide positive opportunities for different types of play- note on the landscape strategy drawing. Pond crossections indicate maximum depth of 1m – whilst gently shelving margins are important in some areas the pond should be 1.5-2m depth for benefit of fish and reduce the risk of silting up.

- Garden fence lines along the stream corridor and along western boundary with the public footpath , and end wall of village hall and shop are unsatisfactory without screening native hedge/structure planting

- Mini roundabout near the pond-recommend soft landscape treatment with at least medium size growing species

- Distinguish proposed large, medium, small size tree species in the landscape key

- Meadows within application area- commitment to be shown on the landscape strategy to diversify with wildflower plug planting

- Footpath proposals outside of the housing area- need information on type of hard surfaces proposed

- Hard landscape details can be conditioned but landscape strategy drawing should note intended main types of materials to include commitment to use of surface dressings and sandstone setts

- An outline landscape management plan should be provided now prior to determination of the planning application setting out which parties it is intended will be responsible for different areas and the key objectives for landscape management of existing and proposed landscape features

3.63 Following the receipt of additional information, the Landscape Architect commented that his concerns remained that changes to the design and layout of the scheme were still required.

3.64 Further plans were subsequently submitted showing a cross section and landscaping proposals for those dwellings closest to the sandstone ridge. In response, the Landscape Architect commented:

3.65 This long section and sectional elevation clearly demonstrates I was right to be concerned in my previous comments about the impact of development on the skyline of the sandstone ridge, previously denied as an issue by the applicants. In order to address this the applicants are using a combination of lowered house platforms levels for plots 3A and 3C, lowering of the surface level of allotments and a 2m height instant hedge planted on the ridgeline. It is accepted this could ensure the skyline as seen in views from Thakeham Rd to the south can be protected, and as seen from the countryside to the north the roofs and chimneys of plots 3C, 3B, 3A whilst breaking the ridgeline would be at least seen against the background of 2m height hedging.

3.66 In view of the part reliance on hedge planting we should obtain written confirmation from the applicants prior to any planning permission being granted that the instant hedging referred to on the drawing will be large size nursery stock of a minimum of 2m height at the time of planting, planted minimum 3m width (thick hedge is needed to ensure winter screening) and of native species and then maintained in perpetuity, with any future removal prevented. I would strongly recommend these requirements form part of the legal agreement as conditions will not be suitable to secure the long term retention of hedging. I would also recommend the use of sheds on the allotments is also prevented by the legal agreement, limiting users to low level chests for storage.

3.67 The solution proposed does however raise another issue of what happens to the not inconsiderable amount of subsoil material that will cut out of the hillslope as part of the solution. The applicants should advise before any permission is granted where they to locate this material on site - presumably taking it off the site would raise further issues of lorry movements through the village - I would recommend it is best spread out over as large an area as possible, rather than creating mounds which in themselves are likely not to be appropriate to landscape character.

3.68 Hedgerow trees/wooded strip on the west side of Storrington Road- I am pleased to hear, following a meeting with the Arboricultural Officer the intention is to retain all of these trees now. I had objected to their loss along with the Arboricultural Officer because of their importance as a landscape feature.

3.69 However I note a number of other concerns/objections I previously raised have not been addressed, despite the fact that some of them would have been relatively easy for the applicants to deal with, without I would have thought necessarily having implications for the development viability.
The general concern about the suburban estate style of development remains, but I would consider we could deal with the following by condition:

- Sustainable long term boundary for the development with the countryside to the north - provide a broad 5m width hedgerow with hedgerow trees, rather than just 2.5M currently shown on the plans
- Main access road landscape - provide locally appropriate hedge and tree planting, and post and rail fencing (rather than close board garden boundary fencing)
- Boundary landscaping between workshops and the pond - conserve any existing vegetation that will not be lost through construction works and enhance with new planting

3.70 The **Public Health & Licensing Officer** commented:

The following comments are made in regard to the above application and the supporting documents that accompanied it.

Air Quality Comments

3.71 The primary concern of Public Health and Licensing in respect of air quality relates to the impact of traffic generated by the development on the Air Quality Management Area (AQMA) in Storrington. With the proposed development lying within 3km of the village, it is clear that Storrington will be the main centre for shopping, schools and other facilities for those residents. Given the limited public transport options it is likely that the development will contribute additional traffic to the centre of the village. Any increase in traffic in Storrington is likely to cause a further deterioration in air quality and consequently further compromise the health of those residents living within the most polluted areas of the village.

3.72 Comments on the Planning Application

- The air quality predictions within the assessment relate to pollutant concentrations in the area immediately surrounding the proposed development where background pollution levels are low. There is no assessment of the impact of the development on the AQMA where pollutant levels are critical.

-. The Transport Assessment indicates that the development will result in a reduction of 9 heavy duty vehicles accessing the Chesswood site. This has been identified, within the Air Quality Assessment, as the main reason why predicted

pollutant levels in 2012 'with development' are likely to be the same as or lower than the 'without development' scenario.

It seems unlikely that a reduction of 9 HDV's will counteract the air quality impacts associated with 146 new dwellings and additional community facilities providing a total of 567 car parking spaces/garages on the Abingworth site alone.

- The Annual Average Daily Traffic (AADT) figures presented in the Air Quality Assessment for Storrington Road, in the 'with development' scenario for 2012, indicate an increase of 96 vehicle movements. This suggests a projected vehicle density of less than one vehicle per dwelling. This ignores vehicles accessing the community facilities and the commercial use at the Chesswood site. If the development is only going to generate an additional 96 vehicle movements per day, the necessity for a total of 567 parking spaces on the Abingworth site alone should be questioned.

- The Transport Assessment (TA) acknowledges that there are currently very limited public transport opportunities available at the development site. It is notable there are no proposals within the application to enhance the provision for public transport apart from improvements to the footpath along the highway immediately adjoining the site and improvements to bus stops. This Department would argue that these facilities are of very limited benefit in the absence of any additional public transport or any links to a wider network of footpaths/cycle paths.

- The Residential Travel Plan (RTP) confirms that the distance of the nearest rail station and neighbouring local villages from the proposal site exceed the distances identified by PPG13 as those that most individuals are likely to undertake. For example Pulborough station is quoted as being 6km (as the crow flies) from the proposal site. Paragraph 78 of PPG 13 states that, "Cycling has the potential to substitute for short car trips, particularly those under 5 km and to form part of a longer journey by public transport". Clearly a cycle route to the station by road will be considerably in excess of 5km and is unlikely to be a viable option.

Paragraph 3.4 of the RTP suggests that the rail station could be accessed via bus service 72. However, paragraph 3.3 indicates that this service offers two services a day on Tuesdays and Fridays only with the last service at 17:30. Not a viable commuting option.

- The Residential Travel Plan is geared primarily towards encouraging modal shift from single occupancy car use to more sustainable forms of travel such as public transport, walking and cycling. However the TA and RTP both acknowledge that those options are very limited for this development. No effective enhancements to those options are proposed as part of the development and one suspects that the success of the RTP will be compromised as a result.

- The mitigation measures contained within the document submitted by Boyer Planning entitled 1) Recommended Low Emission Strategies, are very limited and are not of a scale significant enough to mitigate the full air quality impacts of the additional traffic generated by the new Abingworth Development.

Recommendations

3.73 Given the above and the likely impact of the scheme on the Storrington AQMA, Public Health and Licensing would resist a development of this scale on air quality grounds. However, if there are significant overriding factors associated with the proposal and the development is permitted, then Public Health and Licensing would strongly recommend the following condition to help to mitigate the air quality impacts of the development:

"To agree with the developers a Low Emission Strategy (LES) for the development during both construction and operational phases.

3.74 Low Emission Strategies

The Council is currently working towards formal adoption of a Low Emission Strategy (LES) Supplementary Planning Document.

"Low Emissions Strategies - using the planning system to reduce transport emissions - Good Practice Guidance January 2010 " published by DEFRA is a useful guidance document, however, PPS 23 sets out the basis for implementing Low Emission Strategies through the land-use planning system based on the following principles:

- States that air quality is a material consideration in the planning process
- States that national and international strategies and conventions on air quality and climate change should be taken into account
- Introduces the 'precautionary' and 'polluter pays principle'
- States that aggregated impacts of developments should be considered
- States that planning process should be a force for positive change
- Introduces the concept of off-setting the impact of development

3.75 The Public Health & Licensing Officer concludes that from information submitted so far, it does not appear that an appropriate mitigation strategy is achievable in the time frame set by the applicant. Therefore it is suggested that an offset is incorporated into the s106 agreement.

Land Contamination

3.76 As stated previously the desk study submitted in support of this application details a comprehensive range of potential contamination risks to the development arising from both authorised and unauthorised uses. Of particular note is the identification of drums containing trichloroethylene. It should be noted that this authority has not issued any environmental permit for any process at Abingworth Farm that requires the use of this chemical.

3.77 It should also be noted that there is a significant risk of buried organic wastes at the site. The recent redevelopment of another site in Thakeham, also formerly part of the Chesswood Farm mushroom farming operation, has revealed extensive deposits of spent mushroom compost which is producing significant levels of

methane gas. Such deposits and other contamination if present may significantly affect the suitability of the site for residential development.

3.78 Given the circumstances it is considered that a Desk Study alone is insufficient to fulfil the requirements of annex 2 of PPS23 and that the applicant should be required to provide more detailed site specific information to determine the presence, nature and extent of any contamination at the site.

3.79 Prior to the approval of this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

A. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

B. A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

C. The site investigation results and the detailed risk assessment (B) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

D. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (C) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

3.80 I therefore recommend that the land contamination issue is resolved prior to permission being granted.

3.81 Should you decide to deal with the site contamination by way of conditions as opposed to dealing with it before approval is given, it is worth noting that a reliance on conditions to resolve ground contamination poses a risk that some parts of the site with planning permission for residential development may not be able to be developed safely once investigation results are available.

Noise

3.82 These comments are made with reference to the noise assessment by RSK dated June 2010 entitled “Land at Site A, Abingworth Nursery, Storrington Road, Thakeham”.

3.83 The methodology and survey results are all accepted. The NEC category has been assessed as NEC B for the worst affected residents. However, it is worth noting that this has been derived taking into account a yet to be constructed 1.8m fence.

3.84 BS 8233 specifies design criteria for internal living spaces. The standard selected in the assessment is the “reasonable” standard. However, I would suggest at the design stage it is more appropriate to aim for a “good” standard for resting and sleeping in the residential units.

3.85 In paragraph 3.3 it is not clear how the day time L_{Aeq} at the nearest proposed dwelling of 58dBA and night time L_{Aeq} of 51dBA are derived.

3.86 The report recommends that double glazing with frame-mounted trickle and acoustic vents are installed with a sound reduction index of 30 dB on the relevant key worker bedroom windows to ensure internal noise criteria are achieved. There is also a recommendation to provide a 2.8m fence at the back gardens of the key worker dwellings nearest to Storrington Road. I suggest these recommendations are conditioned as part of the planning process.

3.87 No details on the noise impacts during the construction phase have been included. I would expect a noise assessment to be submitted in accordance with the principles of British Standard 5228-1: 2009 Code of practice for noise and vibration control on construction and open sites. However, this could be dealt with by condition by requiring a site environmental management plan to be submitted, approved, implemented and maintained to control and mitigate against potential detrimental impacts such as noise and dust during the construction phase. Within this plan I would expect the following to be included:

- Hours of construction, including loading and unloading activities, to be restricted to 0800-1800 Monday to Friday; 0800-1300 Saturday; no work on Sundays and Bank Holidays.
- No burning of materials on site
- Waste arisings to be removed from site by licensed waste carriers

Odour

3.88 The Chesswood Nursery site has been a mushroom growing facility for many years. In recent years, it has also been the cause of odour complaints to this Department. The improvements to the Sussex Mushrooms operations at the Chesswood site as proposed in application DC/10/1316, together with the planned operational changes submitted in the application for an environmental permit currently being processed by this Department, is expected to significantly reduce the odour episodes experienced by nearby residents. The proposals put forward by Sussex Mushrooms will reduce the likelihood of anaerobic odours and should reduce the process odours associated with compost manufacture. The applicant is

advising that there will an 80% -90% reduction in odour and their predicted odour foot print would suggest that there will not be an odour issue.

3.89 Without the proposed improvements detailed in DC/10/1316 being completed it would not be possible for this Department to support the application to introduce more receptors to an area where there is an existing problem with odour. However, the improvements proposed at the Chesswood site, are likely to improve the environment for both existing and any future residents in the vicinity.

3.90 The **Arboricultural Officer** originally commented:

I note the following:

- Overall, the plans for development will result in the loss of many small recently planted trees which were set around the mushroom sheds some years ago, and remain young and small in size. These trees (marked on the plans as 'small trees') were the subject of a TPO request back in 2003 (ref: R/03/0324), but I rejected the notion of placing a TPO on them then, and remain of the same view now. Although it is a shame to lose such a large number of healthy young trees, they remain in category C at **BS 5837 'Trees in Relation to Construction'** (2005) and not of sufficient importance to restrict development.
- Within the southern section of the site, to the south of the Parish Hall, a number of unprotected trees are targeted for removal. None is of any consequence in amenity terms, and I record no objection to their loss.
- The woodland strip running east from the Parish Hall area is protected by TPO/1014, confirmed on 15th February 2000. This area is targeted for retention, though the proposal allows for the provision of a north-south access road which requires the strip to be dissected. This is not ideal, as the road severs the woodland, cutting its role as a wildlife corridor. It also requires the loss of a single large ash tree. However, the woodland is relatively sparse at this point, the ash a specimen of no especial or particular merit, and overall I feel that the proposal is acceptable in the context of the development of the site as a whole.
- There is a single large oak tree just to the north-east of the existing large northern mushroom unit which is also protected by TPO/1014. However, I note that this tree has been targeted for retention on the north-east side of the proposed ornamental and wildlife pond. This is satisfactory.
- To the east of the existing football pitch, following the line of the electricity cables running north-south through the site, is a line of Horse chestnut trees, all of which are protected under TPO/1040, confirmed on 30th June 2000. Storrington & Sullington Parish Council have objected to the felling of a number of these trees (letter dated 2nd September 2010), required so as to allow room for the roadway leading south around the proposed cricket ground. I agree with their contention that this line of trees constitutes a strong amenity landscape feature. However, all of them have been brutally hacked back to facilitate clearance to the power lines, and as a result each has its crown cut in half. There is no way now that these trees can ever reach maturity, and their safe useful life expectancy is low. Compounding this is that many are affected by Bleeding canker (Pseudomonas syringae pv. aesculi) which, while not desperately serious at this stage, further questions their long-term viability.

I note the following two areas of concern:

- Due east of Abingworth Hall Hotel are a number of very large beech trees which are protected by TPO/0257, confirmed on 12th October 1976.
  - Three of these are targeted for removal, but I record no objection to this, as all are structurally compromised, two by the pathogenic basal decay fungus Ganoderma adspersum, one by Kretschmaria deusta. They should be felled forthwith.
  - The plans indicate the construction of a road some 7m to the east of the remaining beeches, and additionally a dwelling to the north at 8m away. This is well within the Root Protection Area (RPA) of the retained trees in question, and is imprudent as well as in conflict with BS 5837. Given these trees' protected status, and their very large size (and thereby capacity for damage should they fail), the dwelling to the immediate north is unacceptably close and will need to be deleted or moved outside the RPA's of the trees. The roadway to the east, while technically feasible to achieve, is also a concern as although the Arboricultural Report shows generic examples of roadway construction within the RPA's of trees (Appendix 5), I have yet to see any specific details on this in the area in question. This is unsatisfactory, though I accept that such detail can be required by Condition.
- A further concern is the part of the development along the western side of Storrington Road, opposite the existing entrance to the east serving the football field.
  - I have been unable to find any detailed plans of the proposals in this area at a greater scale than 1:1250, making assessment very difficult. But to the immediate west of the road, beyond the verge, is a raised portion of land, between ditches either side, which contains a narrow woodland strip, containing predominantly lapsed hazel coppice, holly, Field maple and young ash to around 6m in height. The strip looks 'scrappy' due to a lack of management, but this is easily remedied by basic management. It is of value not only as an important wildlife habitat (particularly noticeable within), but also as it provides an excellent rural backdrop to the road, mirroring the larger woodland strip on the opposing side of the highway. The loss of this - as planned - would open up the area, giving it a distinctly urban feel, spoiling the character of the area and having a distinctly deleterious effect on the wildlife therein. This is unsatisfactory.
  - Furthermore, the area contains a number of larger trees, including three very large and highly impressive oak trees with stem diameters close to, or in excess of, 1000mm. Although targeted for retention, I have concerns in regard to the proposals for a new access off Storrington Road between the two more northerly specimens (roughly opposite the existing access to the football field) and furthermore the provision of car parking spaces within very close proximity of the central tree of the three, representing extensive ingress into the tree's RPA. Without detailed plans at a suitable scale (1:200, for example), indicating full details of this construction proposal, I must raise an objection to this as damage to these very large trees would likely result in their demise which is wholly unacceptable.

3.91 In summary, the general arboricultural issues on the site have been handled satisfactorily. However, in regard to the above two points, the scheme is in conflict with BS 5837, and with policy DC9 of the General Development Control Policies Framework document (December 2007). I must thereby raise an OBJECTION to the scheme based on these two points.

3.92 A site meeting was subsequently held to discuss the points arising from the above consultation response. Further to that meeting, the Arboricultural Officer commented:

TPO beech trees east of Abingworth Hall...

- The amended plans (*drawing 00.011 revision P15*) have been adjusted already in regard to my comments. The closest proposed dwelling to the north has been moved outside the RPA's of the large beech trees, and this is now satisfactory. Inserted between the dwelling and the trees is now an access road to Abingworth Hall.
- The proposed access road to the east has been moved slightly further east, again, a greater distance from the trees. This represents a considerable improvement.
- My only remaining concerns in this area are in regard to the specific details requested for the excavation and special surfacing proposals for both the route through the site and the new access track into the Hall. I advised that a new 1:200 scale drawing of the area would be required, with sectional drawings showing details of the special surfacing proposed within the RPA's of the trees, and that this would be required up front as it is no longer acceptable for such details to be dealt with by condition post PP. Mr Bryant accepted this, and advised that he would submit such drawings in the next couple of days. Subject to their suitability, I advised that I would be ready to examine and comment upon them straight away.

Trees on west side of Storrington Road opposite existing entrance to football field

- Again it was clear that the submitted 1:1250 plans were inadequate, and agreement was reached to submit a new 1:200 plan showing a greater level of detail.
- The construction of the new driveway appears acceptable, subject to the details to be provided. The roots of the adjacent three-stemmed ash tree to the immediate north could not realistically be avoided, in my view; however, upon further inspection of this tree I suggested that it was removed, as it is fouling the branches of the adjacent oak, a far better specimen. It was agreed that the proposal to fell this tree would be included on the new plans.
- Consideration was given to the provision of car parking spaces shown immediately to the west of the large oak tree, north of the six dwellings. I advised that although parking bays could be constructed within the RPA of this tree, the proximity shown on the existing plans was unsuitable, and required revision. The tree is sited on a bank falling away west to a culvert, and it is imperative that this bank suffers no excavation. This was agreed, Mr Bryant advising that they would examine how to 're-jig' this area to accommodate my request whilst upholding the required number of car parking spaces. This appears to me to be a readily get-aroundable problem.
- I also sought clarification on the complete removal of the wooded strip along the roadside in this area, which I have objected to. Upon further investigation, all parties agreed that this was unnecessary, and indeed it was acceded that, subject to some restorative management it was both possible to retain much of it and moreover in the developers' interest to do so. I suggested that a simple

management plan for the area was drawn up, providing details of works and proposals for additional planting to 'bulk up' the screening the strip provides, and it was agreed that this would be provided forthwith. An acoustic fence was also mooted; again, all of this I advised would need to be submitted on a large-scale drawing for consideration, and it was agreed that this would be effected.

- It was also agreed that, save for some trimming back of lateral growth along the western side of the road over the existing verge, the visibility splay appeared satisfactory, subject to ratification by the County surveyor; no trees in the strip would need to be wholly removed.

3.93 In summary, I am of the view that my objections in regard to two small areas of this scheme can be readily overcome, subject to the submission of new drawings at a suitable scale. Once I am in receipt of these I will of course report to you on their suitability. I am confident that they will not be found wanting.

DC/10/1316

3.94 **Spatial Planning Manager**: as set out in paragraphs 3.1 to 3.37

3.95 **Building Control Officer**: as set out in paragraph 3.39

3.96 **Design & Conservation Advisor**: as set out in paragraphs 3.40 to 3.60

3.97 The **Landscape Architect** originally commented:

I concur with the comments expressed by the county landscape architect. Further information is needed about the proposals to fully judge their acceptability and the landscape proposals should be strengthened to more effectively integrate the scheme in the wider landscape and enhance biodiversity before I can record no objection to the development proposals.

Key Issues:

- Cross- sections of the proposed relocated reservoir needed- one of more natural appearance than the current one should be provided that ensures a biodiversity benefit (to include indented edges and marginal planting). At present the shape of the proposed replacement does not give confidence in this regard. Confirmation is needed that no security fencing other than the post and rail is needed.

- Provide cross section of the proposed embankment to the north of the growing rooms.

- Establish better green infrastructure connectivity between existing and proposed landscape features shown on the landscape strategy drawing

Additional woodland planting should be provided in the southern fields to provide long term landscape integration of the factory

- Balancing pond- how will this be designed to achieve landscape and ecological benefits. Same issues as above about edge treatments, marginal planting etc

- Brown Water Recycling Plant- information is needed on design and appearance – why could this not be a reed bed treatment area

- Additional strengthening tree and hedge planting should be provided along the Storrington Road to include structure planting behind the existing hedge

- An outline 25 year landscape management plan should be provided at this stage setting out the party/ies responsible for the long term landscape management and the key management objectives for existing and proposed landscape features. Full landscape management plan to be conditioned.

3.98 The Landscape Architect has subsequently commented that he remains of the view that insufficient information has been submitted, albeit some of the above matters could be controlled by condition.

3.99 The **Public Health & Licensing Officer** commented:

3.100 In the past there have been two regulatory routes for operators producing compost in which mushrooms can be grown. On-farm mushroom compost producers are regulated by the Environment Agency through a simple exemption, and off-farm commercial mushroom compost producers are regulated by local authorities through a Part B permit under the Environmental Permitting Regulations. Sussex Mushrooms are on-farm mushroom compost producers and therefore were not subject to local authority regulation. However the waste exemption system changed in April 2010 when The Environmental Permitting (England and Wales) Regulations 2010 came into force. The changes to the exemptions remove the separate exemption for on-farm mushroom composting, meaning these operators will need to hold a Part B Environmental Permit to carry out on-farm production of composting for growing mushrooms.

3.101 Therefore it has become necessary for Sussex Mushrooms to apply to Horsham District Council for a Part B Environmental Permit should they wish to continue mushroom compost manufacture. A duly made application was received by Horsham District Council on 1 February 2011. Horsham District Council has four months to determine the application and can issue a permit which includes a timetable for the works required to meet the conditions of the permit.

3.102 When a permit is applied for, the regulator can specify conditions within the permit to control emissions but this must be done with regard to the process guidance note (currently Process Guidance Note 3/30(6)). The planning application recently submitted by Sussex Mushrooms includes measures that would meet the requirements of the Process Guidance Note.

3.103 Officers from the Public Health & Licensing section have met with Sussex Mushrooms to discuss their application and they have agreed to implement procedures which exceed the current Process Guidance Note as follows:

"Straw bales to be dunked in goody water (not run off from bunkers) and then stacked in open yard.
Poultry litter stored in barn.
Blending machine to be positioned in barn.
After blending compost allowed to drain in barn for up to 8 hours.
Barn will have air extraction to straw bio filter.
Run off from blended material will be collected and taken to existing goody water storage tank to be used for bale dunking.

Blended material to be loaded into hopper and transferred to the aerated bunkers by enclosed conveyor.

Bunkers will have retractable covers which will be used when bunkers are being empty and filled. The covers will in effect enclose the bunkers and the air will be extracted to the straw bio filters.

When the material has been through the bunkers it will either be transferred to the pasteurisation tunnels by conveyor or should it need piling this will be done in the barn.

Concentrated goody water from bunker run off to be collected and stored in one of two new tanks. These will be emptied regularly to prevent build up of odorous material and will be aerated to prevent anaerobic conditions."

3.104 The unanswerable question is how effective will these proposals be at reducing the overall odour emissions. There are five permitted mushroom substrate manufacturers in the country and none of them comply fully with the current process guidance note and all have odour issues.

3.105 The proposals put forward by Sussex Mushrooms will reduce the likelihood of anaerobic odours and should reduce the process odours associated with compost manufacture. The applicant is advising that there will an 80% -90% reduction in odour and their predicted odour foot print would suggest that there will not be an odour issue.

3.106 With no similar process to compare with, the fact that no mushroom compost manufacturer in the country has fully resolved the odour issue, and given that Process Guidance Note 3/30(6) is long overdue a revision, it is impossible to quantify the level of improvement that these new proposals will achieve.

3.107 The process of compost manufacture proposed has been designed to enable alternative additional odour abatement measures to be retrofitted. The bunkers will be able to support a fixed roof if necessary for example if this became a requirement of a revision to the process guidance note. Also the extracted air initially will be passed through a water scrubber and then a straw biofilter. An

alternative method which could be implemented if there was insufficient control of process odours is to use an acid scrubber with a bark biofilter.

Noise

3.108 The following comments are made with reference to the noise assessment prepared by RSK dated June 2010 entitled “Land at site B, Abingworth Nursery, Storrington Road, Thakeham.

3.109 Firstly, the detrimental impacts from demolition and construction activities have not been considered. I would expect a noise assessment to be submitted in accordance with the principles of British Standard 5228-1: 2009 Code of practice for noise and vibration control on construction and open sites. However, this could be dealt with by condition by requiring a site environmental management plan to be submitted, approved, implemented and maintained to control and mitigate against potential detrimental impacts such as noise and dust during the construction phase. Within this plan I would expect the following to be included:

- Hours of construction, including loading and unloading activities, to be restricted to 0800-1800 Monday to Friday; 0800-1300 Saturday; no work on Sundays and Bank Holidays.
- No burning of materials on site
- Waste arisings to be removed from site by licensed waste carriers

3.110 The report assesses noise impacts from the growing shed fans and from changes to traffic flows along the Storrington Road. The report and its conclusions are accepted.

3.111 The impact of the noise from the fans at 2 of the 3 closest residential receptors is not significant. The impact on the third receptor (R3 in the report) is uncertain and as a worst case the rating level is 2dB above background. It would be possible to measure a background level in the vicinity of R3, or at least in a representative location, which would enable an assessment to be made with a greater degree of confidence. The report mentions the potential for acoustic screening to reduce noise levels at R3 if this was found to be necessary. Due to the relatively minor failure to meet the target assessment criteria in the worst case scenario, I suggest this can be dealt with by a planning condition, requiring clarification on the background noise level representative at R3 and if necessary implementing an appropriate acoustic screen to reduce noise levels there.

Air Quality

3.112 An air quality management area has recently been declared in Storrington. It incorporates West Street, the High Street and part of School Hill and Manleys Hill. Horsham District Council, together with its partners, are working on an action plan to reduce pollution from vehicles in this area as traffic is the main source of the high pollutant levels.

3.113 In order to minimise the detrimental effect HGVs from this development could have on air quality I suggest a condition is included which establishes agreed HGV routes ensuring they avoid Storrington village and Thakeham village.

Lighting

3.114 In order to protect residents from nuisance lighting from the site, I suggest a condition is included whereby no exterior floodlighting is permitted unless prior written approval has been granted by the LPA.

4. OUTCOME OF CONSULTATIONS (EXTERNAL & PUBLIC)

DC/10/1314

4.1 As stated elsewhere in this report, the Council commissioned an independent firm of Chartered Accountants, **Saffery Champness** to investigate the commercial viability of the business as a result of the enabling investment contribution towards a wider capital investment programme and review the financial viability of the enabling development and ability to make the enabling investment in light of the number of houses to be built. The full report received by Saffery Champness has been distributed separately to Members. The key points within the Executive Summary of the report state:

- Sussex Mushrooms (SM), as a relatively new company, is currently trading profitably having made losses in its first 2 financial years;
- SM has been able to expand its turnover rapidly by securing new contracts with large supermarkets. It has also benefited from favourable exchange rates and an increasing desire from customers to source their produce locally;
- The financial performance demonstrates that SM is currently a commercially viable business;
- The business is now operating close to the full capacity of its existing facilities
- The sector in which the Company operates is characterised by large concentrated customers, low margins and strong European competition. These lead to inherent risks and therefore the Company needs to be able to increase sales volume and have efficient operations to absorb margin reductions;
- Management believe that the cost base of the business is unnecessarily high due to the age and quality of the facilities;
- The capital expenditure identified, if delivered, would mean that SM would be in a much better position to maintain and build on its current profitability;
- If the capital expenditure programme is carried out in full it is considered that SM is a commercially viable business in the long term;
- If the applicant is granted planning permission then they would make staged payments totalling £2.7 million to SM towards its capital expenditure programme;
- The whole modernisation programme is estimated to cost in the region of £8 million;
- The first payment (£1.5 million) will enable the aerated compost bunkers to be built and therefore obtain the required permit for on site compost production. This would assist the commercial viability of the business in the short term;
- The management of SM state that they would use bank funding to bridge the funding gap for the subsequent capital expenditure costs by using the freehold land and buildings at Chesswood as leverage and collateral;

- There is a considerable risk that this funding cannot be obtained all through the use of bank debt so only an increased level of enabling investment or alternative sources of funding would be required;
- If the upgrades programme cannot be delivered in full, the commercial viability of the business in the longer term could be impacted;
- BNP Paribas Real Estate, which was sub-contracted by Saffery Champness to perform the review of the residential development on its behalf, has concluded that the residential scheme with the level of enabling investment to be made is not commercially viable.

4.2 Saffery Champness was subsequently commissioned to produce a further update in the light of further information received to see if there was any material change to their original conclusions. The key points of their supplementary letter are as follows:

- Since our Original Report, we have also been provided with a letter from a financing broker to Sussex Mushrooms which includes the following statement: "Subject to planning consent and based on the valuation supplied we have had an indication from our lender panel that the initial Bridging funding requirement of £2,000,000 is available as closed bridging followed by a commercial mortgage of £4,300,000 to repay to the £2,000,000 bridging loan and fund the costs of construction of the compost yard and growing sheds, which are partly being funded by yourselves".
- The viability of the business in the shorter term cannot be assured if the permit is not granted.
- The total modernisation programme is expected to cost approximately £8m, as well as an additional £2m required for the proposed acquisition of the Chesswood site freehold. "……phases I and II are expected to cost £4.2m, of which £2.7m will be funded by the enabling grant. The Company will therefore need to fund separately approximately £1.5 million to deliver these phases which will address, in addition to the immediate risks in relation to the compost production permit, some concerns over the quality of some of the current growing facilities from customers. In addition, it will need to obtain funding for a further £2 million to acquire the land. These first phases are planned to be completed by October 2012 and if completed, would put the Company on a stronger commercial footing".
- "The Company is not currently in a position to obtain guarantees of funding from lending institutions for the acquisition of the freehold land and these first phases of capital expenditure due to the uncertainties surrounding whether planning permission will be granted. However, the letter from a financing broker indicates that the risk of obtaining funding for the first two phases of the programme may have been alleviated somewhat, although not eliminated. The Company is also not in a position to obtain guarantees of funding for the subsequent phases of the programme which are planned to be delivered by April 2014 ….. but in any event no absolute guarantees of bank funding could realistically be expected to be in place for the Company today for what would be a requirement in 2-3 years time".
- "Therefore, there is still a significant risk that this funding cannot be obtained from bank debt alone, in which case alternative sources of funding would be required".

- "….based on the information provided to us and subject to the granting of the permit to grow compost, we consider that the Company is commercially viable in the short term".
- The purchase price of the land by Abingworth Developments was originally to be a minimum of £7.25m …..the purchase price is now still not less than £7.25m but Abingworth Developments have stated that the developer has undertaken its own due diligence and is prepared to commit to the delivery of the scheme in line with Abingworth Development's appraisals. This new information could reduce the risk of the scheme not being undertaken by a developer".
- "The thrust of the original conclusions therefore still remain. However, some of the key immediate risks to the enabling proposal appear to have been reduced".

4.3 The **British Horse Society** state that should permission be granted, it is requested that consideration be given to upgrading the existing footpaths to bridleways.

4.4 The **Environment Agency** originally objected to the application on the grounds that no assessment of risk to nature conservation had been made. The applicant was required to submit information that the risks posed by the development could be satisfactorily provided for. It is anticipated that further information will be provided by the applicant prior to the meeting, and any such update will be reported verbally.

4.5 **Natural England** stated that in respect of bats, a further bat survey should be submitted prior to the determination of the application. A survey has subsequently been submitted. With regard to breeding birds, providing any site clearance is undertaken outside of the breeding bird season and replacement nesting opportunities are provided it is considered that the proposal should not be detrimental to local breeding bird populations

4.6 Natural England further notes that the Phase 1 Habitat Survey submitted with the application combine to highlight ecological and mitigation measures. It is considered that such measures are acceptable provided they are secured by a condition. The Council should also consider measures to enhance the biodiversity of the site if permission is granted.

4.7 Further to paragraphs 4.4 to 4.6, your officers have investigated the position in greater detail in relation to protected species, having regard to the comments of the Environment Agency, Natural England and the County Council Ecologist, which are described later in the report.

4.8 It is evident that insufficient information had been submitted with the application to demonstrate that there were no protected species were present on other site. Accordingly, the applicant has been requested to provide further survey work since such a requirement cannot be secured by condition. The applicant has agreed to this request and further survey work is been carried out at the time of writing this report. Further information is, therefore, anticipated prior to the meeting although it is unlikely that further consultation responses would have been received by then. Members are reminded that, under the European Habitats Directive, the presence

or otherwise of protected species needs to be adequately demonstrated and mitigation measures agreed before a decision can be issued.

4.9 **Southern Water** originally commented that the exact position of public sewers on the site should be determined on site by the applicant before the layout of the proposed development is finalised. Following initial investigations, it was noted that there is currently inadequate capacity in the local foul system to provide foul sewage disposal to service the proposed development.

4.10 Following discussions with the applicant, Southern Water further commented that the applicant had provided evidence the proposed foul sewage flows will not be greater than the pre-existing. Accordingly, Southern Water have no objections to the proposal subject to a condition requiring details of foul and surface water sewerage disposal to be submitted to the Council prior to the construction of the development.

4.11 **Storrington & Sullington Parish Council** commented that they strongly objected to the application on the grounds that the development would increase the use of the private car, that as there are no facilities in Thakeham, residents would gravitate to Storrington, the High Street of which has been declared an Air Quality Management Area and as such there is a need to remove traffic from the village, rather than adding to it. The lack of infrastructure should also be taken into account as well as the loss of trees at the site entrance.

4.12 Following the receipt of amended plans and further information, the Parish Council advised their fundamental objection to the application remained.

4.13 [redacted].

4.14 **Sussex Police** comments that the location falls in an average risk area when compared to the rest of Sussex although there are not any concerns with this proposal. The layout with outward facing dwellings creates good defensible space. Parking in the main is removed from the streets resulting in a free and observed road layout. I would recommend that the parking areas situated at the allotments, the LEAP, village Hall and shop, cricket pitch and sports pitches are well overlooked and adequately lit to reduce the opportunity and fear of vehicle crime. It is also stated that it is important that the boundary between public space and

private areas are clearly indicated. Lighting is also an important consideration, both in the car parking area, around the buildings and communal areas.

4.15 **Sussex Ramblers** object to the application on the grounds that it is isolated development in the countryside, it is unsustainable and the proposal is not financially viable

4.16 **Thakeham Parish Council** originally commented that 'after careful consideration and research, the Council believes both applications should be rejected.'

The Parish Council further states:

- that the scale of development was too great and the site unsuitable
- there is a risk that even with an injection of new funding, the business could still fail in the future.
- In respect of pollution, rather than any odour reduction being a benefit of development, such reduction would be enforceable by law anyway. The growing sheds which are the subject of application DC/10/1316 could cause even more pollution due to their size.
- ownership issues relating to the provision of community facilities must be resolved.
- the opinions of the community were held to be important and the overriding concern of the community was that the number of houses was too great.
- in conclusion, given the number of dwellings proposed and the present degree of uncertainty regarding the future of the business, the Parish Council opposes both applications.

4.17 The Parish Council also submitted details of a questionnaire which had previously been carried out. The key conclusions of it are:

- there was general agreement for mushroom farming remaining in Thakeham
- the issues surrounding odour are of greatest concern to those who responded. It was noted that the situation could be controlled independently of any planning applications
- there was support for clearing Abingworth of derelict and obsolete buildings. Some respondents expressed concern as to what will become of the site if the plans do not go ahead
- 54% of respondents felt that the number of proposed houses was excessive, compared to 31% who felt that the number was reasonable
- a number of respondents felt that the location of the development was too far from facilities to accommodate retirement dwellings
- recreational and additional facilities were widely seen as beneficial
- the overdevelopment of the site and pressure upon infrastructure was of concern to many residents
- the majority of residents (53%) felt that the Council is wrong to consider the application to build houses as an exception to normal planning policies. 38% felt that the Council was justified in so doing.

4.18 The Parish Council submitted further detailed comments, which maintained their objection on the following grounds:

Thakeham Parish Council's (TPC) objection to the linked planning applications for Abingworth and Sussex Mushrooms is based on:

1. Community views – if a development of this size is to be exceptionally granted, contrary to all usual planning policies and legal opinion, it should only be granted with a majority of community support. Without majority support than it can be said that the 'identified local need', a key criterion of CP8, is an imposed one.
2. The departure from planning policies that permission for these applications would represent – stated benefits to the local community, with the exception of solving the odour problem, are questionable. The support of a local business by allowing a significant housing development could set a dangerous and legally unacceptable precedent.
3. Focus on the HDC commissioned viability report and the risks for the community should these applications be approved and the mushroom growing business fail – Sussex Mushrooms investment plans appear commercially sensible but are not supported by any evidence that they can be funded. The housing development plan appears over-optimistic as to sales prices and overall profitability reducing the residual land valuation accordingly. With further risks ahead at this difficult time for the economy it is not hard to forecast the development running into serious problems.
4. The promise of odour and noise reduction is unfulfilled – so far as odour control is concerned the interests of the community and Sussex Mushrooms are aligned. The business cannot continue unless a permit is granted and failure to significantly reduce the level of odour pollution would unquestionably alienate the whole community. Given the extended footprint on the Sussex Mushrooms site noise levels are also of concern and the environmental report assumptions are challenged.
5. The price of the 'substantial environmental enhancement' of the development which is not compatible with the 'character of the location' – Abingworth Developments have included within their application a number of community facilities. However, taking the pragmatic view, there are also a number of concerns regarding ownership and operating costs. It must also be recognized that the developer is obliged to provide funds for a number of community needs, including education, transport and the like. Any attempt to offset some of the proposed facilities against the provision of funds must be resisted.
6. The lack of detail and unsuitability of the affordable housing and retirement homes proposed together with the inappropriate layouts and design of the dwellings – a recent survey undertaken by the Parish Council indicates that there is a limited demand for affordable homes within the parish. Those that are required could be provided by a small scale development similar to that recently successfully completed at Amberley. This proposal is neither one thing nor the other in that it fails to provide the number of affordable homes required by the accepted policy. It provides 'key worker' homes for the benefit of Sussex Mushrooms but not the community and attempts to introduce 55+ in a completely unsuitable location.
7. The concerns of officers relating to environmental and ecological issues – these need to be addressed, particularly as the proposals will have such a serious effect

on the rural surroundings of the development. Tree preservation will be impacted on both sites and the urbanization of a significantly increased area on Abingworth is bound to have a detrimental effect to local wildlife.

4.19 **Thakeham Village Action** has submitted a number of representations in connection with the proposal. Initially, a holding response was sent stating that an objection would be submitted on the principal grounds that:

i) the proposed development is contrary to policy and there are not sufficient material considerations to override such conflict
ii) Thakeham is an unsustainable location for a development of such size
iii) insufficient information has been submitted in respect of financial viability of the mushroom business.

Secondary objections were to be raised on the grounds of

i) adverse landscape impact
ii) increased car use
iii) no proven need for the housing
iv) retirement homes unsuitable in this location
v) loss of Grade 2 agricultural land vi) proposed traffic calming measures are unacceptable
vii) increased potential for accidents
viii) harm to wildlife and archaeology
ix) increased water pollution
x) reducing odours is a legal requirement, not a benefit of development

4.20 Thakeham Village Action subsequently submitted a fuller objection, the summary of which is as below:

Thakeham Village Action (TVA) objects to applications DC/10/1314 and DC/10/1316 for development on Abingworth Farm and Chesswood Nursery, Thakeham, as TVA's opinion is that the applications do not accord with the development plan and insufficient evidence has been provided of any material considerations that show that the plan should be overridden.

To be in accordance with the local plan, the HDC Core Strategy, TVA argues that housing development of this size is unsustainable. Policy CP5 defines Thakeham as being a Category 2 settlement suitable for only small-scale development or minor extensions that address specific local needs. This development would increase the size of the existing settlement (the Thakeham High Bar Lane settlement) by 59%. TVA also claims that it fails to meet Policy CP8 as no additional local, social or economic needs have arisen in the community and Policy CP15 as adding 146 houses cannot be considered to be a substantial environmental enhancement compatible with the character of the location.

As explained in Section 6 (below), the financial information provided by the applicant and available to the public in our opinion does not give comfort that the applicant's assertions about the future of the business are credible. Unless additional professionally audited information to the contrary is provided, we

conclude from the information made available to us that that the continuance of the business is questionable whether or not permission is granted. In any case, in our judgement, the provision of financial assistance to a company is not a valid reason for permitting unacceptable planning development.

TVA considers that the development is on so large a scale that it would change the landscape from a rural countryside character into an urban/suburban area. Small distinctive features, such as the sunken lanes, would be threatened.

TVA says that some 20 acres (8 hectares) of top quality Grade 2 soil would be built on. To concrete over the best and most versatile agricultural land would mean this national resource is lost for future generations, contravening the sustainable development core policy. The new mushroom buildings requested could be built on the existing building and hard-standing footprint.

As TVA claims it is an unsustainable location, it would mean that car travel will be the main method of transport, adding to climate change. TVA argues that travel to work by bus, cycling or walking is not practicable, apart from within Thakeham. In addition, speed humps and rumble strips are considered unsafe on the B2139, a local through route.

As no full surveys are provided in the applications, it is impossible to determine if the ecology, water regime or archaeology will not be harmed. TVA's view is that loss of local amenity through noise, light pollution etc will occur, particularly impacting on the local conservation area. The removal of the odour nuisance is now a statutory requirement.

TVA therefore concludes that these applications absolutely fail to meet planning policy and therefore the applications should be refused.

4.21 Thakeham Village Action also submitted comments in response to the Saffrey Champness viability report. They state:

- there were questions relating to the funding of Sussex Mushrooms. Neither Sussex Mushrooms nor Saffrey Champness provided evidence that the company could raise finance from a bank and therefore the business viability of the Sussex Mushrooms had not been proven beyond doubt
- the trading position was considered to be uncertain as the profit margin of the company was much smaller than its competitors, there was reliance on a few large customers and the company is exposed to severe competition when the Euro is weak against Sterling. The future viability of the Company again had not been proved beyond reasonable doubt.
- the viability of the residential development was also questioned due to discrepancies between the residual land value supplied by the applicants own valuers and that provided by the independent agency as part of the Saffrey Champness report.
- insufficient evidence had been provided regarding the agreements between the various parties relating to the proposed development or regarding an analysis of the consequences should the company fail after planning permission is given.

In conclusion, TVA states that there is no reason to justify a colossal departure from local, regional and national planning policies.

4.22 In response, to the comments from TVA, Saffery Champness was asked to provide a further update answering the points raised. Prior to submitting the supplementary letter, Saffery Champness stated "…there are constraints as on what we can reasonably put into the public domain…such that it doesn't prejudice its [Sussex Mushrooms] business from a commercial point of view and give valuable information to competitors, suppliers and customers. This constraint will unfortunately not disappear…"

4.23 TVA have also sought legal advice which concluded that: "it would have to be a very clear and carefully reasoned Report before the Planning Committee could recommend that the applications be lawfully permitted…it is my opinion that such a decision would be open to successful challenge by way of judicial review".

4.24 The **Thakeham Village Hall Management Committee** commented that they are not supporting or opposing the overall proposals

4.25 **West Chiltington and Thakeham Cricket Club** strongly supports the inclusion of a cricket ground in the development proposals as this has the potential to meet a significant need for additional cricket facilities in the area. The current facilities, at West Chiltington recreation ground, have reached capacity. The Club considers that the proposed cricket facilities are generally acceptable although there are some concerns regarding the internal layout of the proposed pavilion and the lack of a suitable store for grounds maintenance equipment.

4.26 **West Sussex County Council** originally commented:

ECOLOGY

4.27 The WSCC Senior Ecologist has advised that a strategic ecological objection would be raised on the basis of not enough information having been submitted to allow a suitable determination with regard to Protected Species.

All surveys for protected species must be completed to support the application along with the proposed mitigation (ref: ODPM circular 06/2005 paragraphs 98 & 99).

4.28 The County Council subsequently commented:

I note that my colleague Don Baker advised last September that there was insufficient information on Protected Species. Thus it is most regrettable that further surveys have only just been commissioned. As before, without such information it is not possible to determine the application. Surely the solution is to take the application to a later committee.

Alternatively, the applicant could attempt to conduct the surveys as outlined in the letter from RW Green Ltd dated 24th March 2011. Such surveys are weather-

dependant so there is no guarantee that adequate data can be collected in this extremely tight timescale. However, that is the applicant's risk. Furthermore, adequate time will be required to assess the findings once submitted as part of the Ecological Assessment report.

HIGHWAYS

4.29 The County Council's comments on highways can be summarised as that in principle and given the location of this development, there would be significant fundamental concerns raised regarding the unsustainable location of this development and the dependency that future residents would have upon the private car in order to access any range of services. A number of concerns would be raised also with the proposed access arrangements and the dependency upon the proposed traffic calming being implemented and achieving the necessary speed reductions. These fundamental issues do need to be addressed.

Whilst measures are proposed to encourage sustainable transport, it is considered that the location of the development is a fundamental factor and that despite any measures proposed that these would not serve to reduce the number of motorised journeys, reduce reliance on the private car, or encourage alternative means of travel and would therefore contradict the advice within PPG13, PPS3 and PPS1. Should the Planning Authority consider supporting this proposal and they should seek the proposals to be supported by way of a comprehensive package of sustainable transport works and a detailed travel plan revised as per the comments above.

Whilst there is no WSCC policy as such against the implementation of traffic calming on roads such as this, the comments of the WSCC Traffic Manager are being sought as measures of this nature may undermine the free flow of traffic. It is felt at the absolute minimum that these measures are the subject of further detailed scrutiny and consultation.

The above fundamental points do need to be addressed. As it stands, significant concerns would be raised due to the unsustainable nature of the site. Further information is required regarding the access arrangements. An objection is raised pending the receipt of additional information.

LANDSCAPING

4.30 The WSCC Landscape Architect has advised that a strategic landscape objection would be raised for the following reasons,

- The proposed development extends beyond the existing factory building envelope and also proposes greenfield development beyond the existing village curtilage.
- There is a no Green Infrastructure Analysis & the proposals show poor connectivity between existing and proposed landscape features in the proposed layout (except the footpaths which are well considered)
- The proposed development has a detrimental effect on existing Landscape Character, particularly on the Southern and South-eastern edges.

•The proposed location of key-worker housing will affect the screening of the existing adjacent factory site and reduce the wooded hedgerow along B2139.
•The location of the proposed allotments is likely to create suburban visual clutter on the brow of sandstone ridge to the south of the site.
•There are long-distance views of the South Downs National Park from the top of the sandstone ridge to the south of the site which extend in total for approximately 30miles between the Trundle and north of Worthing. In landscape planning terms the sandstone ridge should act as containment to any development in this location. The potential for urbanising features to extend above the brow of the ridge would affect the quality of the wooded settlement setting and should be avoided.

4.31 West Sussex County Council further commented that the physical access works, had been the subject of discussions also with the publication of Manual for Streets 2 occurring part way through consideration of this proposal. In particular, MfS2 does enable visibility splays to be drawn to the path of oncoming vehicles rather than to the nearside kerb edge, which is the more traditional means of drawing the splays. These comply with current guidance and thus are considered adequate. It was further confirmed that there remains the intention to implement a scheme of traffic calming along with entry features into Thakeham and these may have the consequence of lowering vehicle speeds. The traffic calming scheme would be subject to detailed design and a statutory consultation process. Hence a suitably worded obligation should be entered into the S106 to require the Developer to design, consult and implement a suitable scheme of traffic calming within an agreed and reasonable time frame.

4.32 The County Council further commented that the routeing of construction traffic will need to be carefully considered both in terms of the nature of local routes as well as in terms of wider impacts on the Air Quality Management Area in Storrington. The phasing of development will dictate the construction management plan. With regards to sustainability, it had been previously identified by the Highway Authority that the site is unsustainably located and does not offer a realistic opportunity for future residents to travel by means other than the private car, with there being in particular very limited destinations for those travelling on foot or by cycle. The location of this development therefore conflicts with current sustainable transport policies. The County Council further commented that it was appreciated that there are a number of factors that need to be considered on balance by the Planning Authority alongside the matter of sustainability.

4.33 The County Council therefore concluded that in highway safety and capacity terms this proposal would not result in any detriment but that significant concerns remained in relation to the unsustainable location of the site in transport terms. In response to a separate query from the applicant, the County Council further confirmed that the required financial contribution for education could not be offset against the provision of a pre school.

4.34 The Archaeology section of the County Council submitted separate comments, raising no objection subject to conditions.

DC/10/1316

4.35 The **British Horse Society**: as set out in paragraph 4.3

4.36 The **Environment Agency** object to the application on the same grounds as set out in paragraph 4.4

4.37 **Natural England** note that the Phase 1 Habitat Survey does not highlight the presence of protected species on the site – if there are protected species on the site, then further survey information should be submitted, otherwise their comments are as per paragraph 4.5.

4.38 **Southern Water** stated that as the site required hydraulic modelling, additional time was requested to comment on the application. As yet, no further comments have been received and therefore it is anticipated that an update will be given verbally at the meeting.

4.39 [redacted].

4.40 **Thakeham Parish Council**: primarily as per paragraphs 4.15 to 4.17. Specifically relating to this application, they state that the modernisation proposal includes in the first phase the installation of new aerated compost bunkers. If a reduction in odour could be achieved, it would be most welcome, however due to changes in legislation, such reductions may, in the future, be enforceable anyway. The proposed buildings which are the subject of the application are of significant size and it is felt that reasonable efforts have been made to lessen their visual impact. Nevertheless, there are real concerns regarding noise pollution.

4.41 **Thakeham Village Action**: as per paragraph 4.18 onwards.

4.42 **West Sussex County Council** commented:

ECOLOGY

4.43 The WSCC Senior Ecologist has advised that a strategic ecological objection would be raised to this proposal as not enough information has been submitted to allow a suitable determination with regard to Protected Species.

HIGHWAYS

4.44 In general, the highway implications of this proposal are accepted. There are however a number of points that need to be addressed.

4.45 In principle, it is generally accepted that the existing, permitted use does generate a significant number of HGV movements, which are not restricted. As a consequence of this proposal, there does seem scope for HGV movements to increase but again given there are no restrictions upon the permitted use, it would seem possible that these may occur in any case. Some clarification would though be sought regarding the planned increased outputs and the potential output that could arise should the proposal be implemented in addition to the planned

increase. Further detail would also be sought regarding the actual number of HGV movements arising from the site. Further information would also be sought as to whether the highway works have been safety audited.

LANDSCAPING

4.46 The WSCC Landscape Architect has advised that no Strategic Landscape Objection would be raised subject to clarification on certain points.

4.47 Upon receipt of further information, the County Council confirmed that, in highways terms, there would be no objections to the application subject to conditions to be specified and provisions within the Section 106 agreement.

4.48 The County Archaeologist has separately confirmed that no objection would be raised subject to conditions.

PUBLIC CONSULTATIONS

DC/10/1314 & DC/10/1316

4.49 In total, 187 objections have been received to the applications. Of these objections, 57 related specifically to DC/10/1314, 1 specifically to DC/10/1316 and 129 to both applications.

4.50 In total, 218 letters of support have been received regarding the applications. Of these letters of support, 13 related specifically to DC/10/1314, 8 specifically to DC/10/1316 and 197 to both applications.

4.51 3 letters expressing neither support nor opposition to the scheme were received in respect of application DC/10/1314.

4.52 For members' guidance, and as a broad indication only, the letters of representation both in opposition to, and in support of the applications were broken down into 3 categories – letters from those that reside in properties close to the site for example, High Bar Lane, Furze Common Road, The Street (Category A), letters from properties elsewhere in the District (Category B) and those received from outside the District (Category C).

4.53 In respect of the letters of objection, 62% were from properties in Category A, 31% in Category B and 7% from Category C.

4.54 With regard to the letters of support, 14% were from properties in Category A, 13% in Category B and 73% from Category C.

4.55 The letters of objection, taking both applications together, were on the following grounds:

- the residential proposal represents overdevelopment of the site
- adverse impact upon light, privacy and noise

- the residential development is out of character with the area
- increased traffic in respect of both proposals
- there is no requirement for the proposed homes
- odour issues should be dealt with under separate legislation and does not require any form of enabling development
- lack of existing infrastructure
- the residential proposal is contrary to Local Development Framework policy
- the location is too isolated for retirement homes
- the residential proposal does not meet the requirements of the Localism agenda
- Thakeham is a Category 2 settlement
- the proposed facilities already exist in the area
- the business may well close anyway irrespective of any permission
- the future success of the business should not depend upon the building of houses
- loss of Grade 2 agricultural land
- 146 houses is too many for the site
- both site are owned by the same developer
- existing buildings should be used first in accordance in government guidance
- there is a lack of sufficient financial evidence to demonstrate that the construction of the dwellings is essential to maintain the business
- the density of development results in an inefficient use of land
- the proposed community facilities will not be viable due to the proximity of the site to Storrington, a Category 1 settlement
- loss of trees
- adverse impact upon wildlife
- the business has outgrown the current site and should seek to relocate
- there is no guarantee that the proposed bunkers will reduce odour to an acceptable level.

4.56 The letters of support, again taking both applications together, were on the following grounds:

- the existing site is a blot on the landscape
- there are a lack of facilities in Thakeham
- there is a need for key worker accommodation
- the village hall is overused
- over 55s accommodation is required in the area
- the village has always grown with the Company
- odour problems will be reduced
- existing jobs will be saved to the benefit of the local economy

5. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS & HELP REDUCE CRIME AND DISORDER

5.1 Article 8 (right to respect of a private and family life) and Article 1 of the First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of Human Rights forms part of the planning assessment below.

5.2 The Safer Places document from the ODPM, (2004) offers a good practice guide for the creation of well designed and safe places through the planning system. The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act. Given the consultation response from Sussex Police, it is not considered that the proposal will have an adverse impact upon crime and disorder.

6. PLANNING ASSESSMENT

6.1 There is a clear distinction between the two planning applications with regard to their compliance with the development plan, if they are considered on an individual basis. As explained by the Spatial Planning Manager (paragraphs 3.7 & 3.10 above), the proposed residential development (DC/10/1314) is clearly in itself contrary to the provisions of the development plan, as expressed in the South East Plan and the adopted Core Strategy; in particular it does not comply with Policy CP5 as well as with other policy provisions. Indeed, the application was advertised as a departure application from the development plan on its registration. On the other hand, the proposals for the improvements to the mushroom growing business (DC/10/1316) are of a different nature and they are not themselves in fundamental conflict with the adopted planning policies. However, it is neither intended nor appropriate that the planning applications should be dealt with in this 'detached' way. The applicant has quite firmly indicated that the buildings associated with the proposal for the Chesswood site (Site B - DC/10/1316) could not be built without additional funding and, therefore, there would be little value in determining an application that was unlikely to be implemented. A determination of application DC/10/1316 on its own would not be able to secure the consolidation of the business on the Chesswood site (Site B) and moreover, were it to be determined independently, then the ability to link the applications by legal agreement would be lost. It is, therefore, firstly important to outline the reasons for their joint submission.

6.2 In the past, there was no requirement for a permit to enable Sussex Mushrooms or its predecessors to produce compost for mushroom growing in accordance with Government guidance. Although it is stated that the company has always sought to improve the compost making process as far as possible in accordance with such guidance, it has nevertheless been widely accepted that there has for many years

been an ongoing odour issue at the site due essentially to the nature of the operations on the site, to the detriment of the amenities of local residents. As found by the survey results to the questionnaire issued by Thakeham Parish Council, odour was seen as the greatest issue of concern by those who responded to the survey.

6.3 Since March 2010, it became necessary for Sussex Mushrooms as the current mushroom growing operator to apply to Horsham District Council for a Part B Environmental Permit should they wish to continue mushroom compost manufacture, which is a key part of the mushroom growing process on this site. A duly made application was received by the Council on 1st February 2011. The Council has four months from this date to determine the application, entirely separate from the planning process, and can issue a permit which includes a timetable for the works required to meet the conditions of the permit.

6.4 The supporting information submitted with the application states that the existing buildings on the site are old and of generally poor quality, a description with which it is difficult to take issue with when viewing both sites from either the road or nearby public footpaths. As such, therefore, it would seem unlikely that the existing buildings could be utilised to meet the requirements of any permit.

6.5 It is stated that a major upgrade of the facilities on the site is therefore required. This has already begun with the construction of the Fuel Storage Building granted permission by this Council by way of a separate application last year. It is stated that the company won a 50% grant towards the £1.8 million cost of the project (from SEEDA) and this investment could be taken as an indication of the intent that the Company has to upgrade its facilities on the existing site.

6.6 It is further stated in the supporting information submitted by the applicant that key customers of the company will require the mushroom growing operator to modernise the operational growing facilities and, therefore, the company considers that a major upgrade is required in order to compete with other large European producers. The whole modernisation programme on the site is expected to cost in the region of £8 million and would be expected to take place over a 4 to 5 year period.

6.7 Whilst this represents a programme of work over a period of years, of immediate urgency is the need to meet the requirements of any permit for mushroom compost manufacture. The construction of the proposed aerated bunkers would help meet such requirements as well as increasing the commercial viability of the company. It is estimated that the cost of the bunkers would be around £1.5 million.

6.8 The current mushroom growing operator, Sussex Mushrooms has previously stated that such investment to improve facilities could not be borne by the mushroom business solely. When there was no obligation to hold a permit, the company could continue to use its existing facilities, albeit with continued odour problems caused at least in part by the outdated nature of its facilities. However, now there is an obligation to provide such a permit, it is quite clear that a significant degree of investment is now required.

6.9 It is apparent from the independent viability assessment (paragraphs 3.20 and 3.21 above) that the stated position of Sussex Mushrooms is correct; namely, that the company cannot meet the full cost of the proposed improvements to the composting operation themselves. It can, therefore, be taken that, without additional funding, the current business will fold due to its inability to meet the requirements of the permit.

6.10 It is understood (see paragraph 1.1 above) that, if planning permission is granted for the clearance and redevelopment of the Abingworth Nursery site (Site A) and the accompanying consolidation of the mushroom operation onto the Chesswood site (Site B), Sussex Mushrooms has an arrangement with Abingworth Developments to enable its longer term security through the freehold purchase of the Chesswood site (Site B) as well as the injection of the intended capital for the modernisation works.

6.11 If planning permission is granted, for both developments, the permission for the Abingworth Nursery site (Site A) could only be implemented when the first phase of the modernisation programme on the Chesswood site (Site B) has been completed to the satisfaction of the Council. Similarly the second phase of the development on Site A could only be implemented when the necessary growing tunnels as the second phase of the modernisation programme on Site B have been provided. The first £1.5 million 'enabling' payment would be made available to allow construction of the aerated bunkers to comply with the requirements of the permit. The remaining £1.2 million would then be made available for the costs of the construction of 12 growing tunnels on the Chesswood site (Site B). The mushroom growing operator could then also purchase freehold land and buildings at the Chesswood site (for some £2 million) and would expect to use bank funding, with the Chesswood site as collateral, to the bridge the funding gap for the necessary capital expenditure. The position with regard to the funding can be summarised as follows:

Proposed Works	Funding Source	Completion
Phase 1 – Aerated Compost Bunkers and preparation works – Total Cost: £1.85m (£1.5m for bunkers)	£1.5m from 'enabling' development	October 2012
Phase 2 – Consolidate Operations/ Build 12 new growing tunnels – Total Cost: £2.43m (including demolition/site clearance)	£1.2m from 'enabling' development – rest from bank loan/debt	October 2102
Phase 3 – New Pasteurising Tunnels Total Cost: £360k	Bank loan/debt	April 2013
Phase 4 - 13 New Growing Tunnels Total Cost: £2.25m	Bank loan/debt	October 2013
Phase 5 - New Material Store/General Site Clearance Total Cost: £1.035m	Bank loan/debt	April 2014
Total Capital Expenditure = £7.835m	Shortfall after £2.7m 'enabling' investment: £5.135m	

6.12 As stated in the Management Plan / Viability Report submitted by the applicants with the planning applications: "Sussex Mushrooms recognises that the only reason that housing development would be considered on the Abingworth site (Site A) is for the purpose of delivering environmental improvements to the community as a whole as well as safeguarding the mushroom growing business in the future and ensuring the business remains a major employer in the Horsham District."

6.13 It must be expressly recognised that the proposed residential development is not in accordance with the development plan and as such, if the two planning applications are to be considered jointly as is indicated, any positive determination needs to be justified by material considerations of sufficient weight to indicate that such a determination other than in accordance with the development plan is appropriate. As indicated in the Spatial Planning Manager's comments set out above, there are a number of factors that need to be considered and weighed in the balance to establish whether or not such a justification exists in this case. The key considerations are as follows:

6.14 **i) Economic Development** – four of the spatial objectives set out in the Core Strategy as the basis for delivering the spatial vision for the District are important in the consideration of the proposals. Spatial Objectives 5) and 6) indicate the intention to provide for business and employment development needs, particularly for existing local businesses, and to meet the diverse needs of the communities and businesses

of the District. These objectives are set within the context of other objectives (Spatial Objectives 1) and 2)) to protect and enhance the diverse character and local distinctiveness of the District and to integrate the need for protection of the natural, built and historic environment (including the natural resources) of the District with the need to allow the continued evolution of both the countryside and the character and environment of settlements.

6.15 There are clearly local business needs in this case; in fact, as indicated above, the mushroom growing business is highly unlikely to be able to continue if additional funding is not secured. Moreover, the jobs involved are an important factor to be considered. Information supplied by the applicant's agent states that the latest schedules of employment relating to the company show that there are 61 full time and 4 part time salaried employees and 398 full time, 13 part time, 3 weekend and 10 casual staff paid on a weekly basis. This makes a total of 488 employees comprising 459 full time, 17 part time, 2 weekend and 10 casual. On the assumption that each employee who is not full-time is equates to a 0.5 full-time equivalent, then the total number of full-time equivalent employees is 473.5.

6.16 Moreover, the recent Written Ministerial Statement (paragraph 2.4 above) is clearly relevant and the Council's own District Plan, (which replaced the Corporate Plan) adopted for the period to 2015, outlines the Council's aims to 'plan for a successful local economy with high levels of employment' part of which is to 'help our local businesses and increase employment'. Equally, the Council will also seek to create 'Living, Working Communities' including to 'strengthen relationships and listen to our communities' and to ensure the 'provision of housing to meet local and economic needs'. The 'Environment' is also an important part of the Plan, seeking to retain the special character of our District through effective planning policies. Where in the past, such corporate non-planning specific planning documents may have had limited weight in the planning process, such key priorities, where also embodied in the Core Strategy, must now be fully considered.

6.17 These aims and objectives of the District Plan and of the Core Strategy, supplemented by the objectives of the Government as recently expressed, illustrate that the assessment of the applications is not straightforward, given the combination of a unique set of circumstances. Quite clearly, there are competing objectives in the determination of the applications since their refusal would almost certainly lead to the loss of a significant and well known local employer and, therefore, contrary to the Council's aim of planning for a successful local economy and helping local businesses; yet, similarly, proposed housing in an area not normally considered suitable for development and of a scale that would not normally be appropriate does potentially conflict with the requirement to retain the special and diverse character of the District and one of its settlements. Certainly the local community as a whole does not view the current proposals as being acceptable to the local environment, despite the willingness to consider a proactive approach to the future of the sites. However, as indicated in the Spatial Planning Manager's comments in paragraph 3.18 above, the potential for an exceptional approach to be taken to development proposals outside the normal context of the planning policies was recognised in the Core Strategy, in Policy CP8. That policy states that development **beyond** that provided for in the Site Specific Allocations of Land DPD may "…exceptionally be granted where additional local, social or economic needs arise or where

development would result in substantial environmental enhancement compatible with the character of the location." In their report on the Core Strategy examination, the Inspectors concluded that the policy provided flexibility for the positive consideration of beneficial proposals which arise outside of the context of the DPD."

6.18 On balance, in accordance with the analysis in the Spatial Planning Manager's comments above (paragraphs 3.2 – 3.37), and given the existing nature of the sites and their current impact on the setting of the village, it is concluded that the proposals would offer an appropriate environmental enhancement, which is not detrimental to the overall character of the location, as well as the identified economic benefits; this conclusion can, therefore, be taken as an important material consideration of considerable weight in the circumstances.

6.19 **ii) 'Enabling Development'** – it is important to be clear on the principles to be applied to such a 'linked' development if the 'enabling' justification for the overall proposals is to be sustained. The comments of the Spatial Planning Manager set out in paragraph 3.25 above address the issues relating to the relevant Government guidance on 'enabling development' and the considerations involved. It would, however, clearly be unacceptable were the houses to be constructed but the future of the Chesswood site (Site B) had not been secured as far as possible or the intended injection of capital to the mushroom growing business had not been guaranteed in an appropriate manner. Such a circumstance would clearly result in a failure to address the economic objectives of the District Plan and Local Development Framework policies. The key consideration in this case is the extent to which that certainty can be provided and the risks which remain.

6.20 The independent assessment in terms of viability has clearly identified the shortfall in funding from the 'enabling development' for the necessary improvements and the significant risk that the full funding required cannot be obtained from bank debt alone. There can, therefore, be no certainty that a viable business will be guaranteed as a result of the 'enabling development'. However, any such long term guarantee would be unlikely for many forms of economic development, given the wide range of factors affecting future business operations. As the Spatial Planning Manager has pointed out, the understandably cautious conclusions of the independent assessment need not in themselves be the prime determinant of whether the scheme should be accepted; Members will need to weigh this in the balance but it is clearly sometimes necessary to take a broader view, and even accept the risks involved, in order to at least give the potential to achieve the desired objectives. It is certainly clear that, without the overall scheme and the enabling investment, the existing business has no future and the sites will become redundant as an intensive horticultural operation, with the consequent problems that will be likely to create (see Spatial Planning Manager's comments in paragraph 3.24), so even with the risk of failure for the business at some stage in the future, despite best endeavours to succeed, it is considered to be worth supporting the proposals in the circumstances.

6.21 It should be noted that concern has been raised regarding the non disclosure of commercially sensitive financial information, although this has been seen by the independent accountants commissioned by the Council, Saffery Champness. It was recently held in the case of Ian Frazer English v East Staffordshire Borough Council & National Football Centre Limited that the non disclosure of a financial report that

had been submitted by the applicant was not procedurally unfair. In that case, the Local Planning Authority had, as with the current application, commissioned an independent review. The claimant considered that the decision of the Planning Committee was perverse as it had not seen the financial report. Since the gist of the financial report had been available at the meeting (equivalent to the summary report in this instance) the Courts held that the claimant could run any argument it chose to from the information put forward at the meeting. Having regard to the case law, therefore, it is considered that the Council's approach in this instance has been appropriate.

6.22 Nevertheless, every attempt must be made to ensure that the intended objectives are capable of being achieved. If planning permission is granted it will be on the basis that the economic benefits of securing capital investment (and security of tenure together with environmental improvements) for mushroom production amount to material considerations of sufficient weight to justify an exception to development plan policies. If the Committee is minded to grant permission for that reason it will be essential to ensure that the applicants and all parties with an interest in the land are bound into a legal agreement (S106 Planning Obligation) that will ensure the delivery of the defined investment into the mushroom business on the Cheswood site (Site B) in parallel with the residential development on the Abingworth Nursery site (Site A). This will require covenants to prevent commencement of the first phase of the residential development until the first phase of the mushroom production investment has been completed to the Council's satisfaction and to require rapid progress with commencement of the second investment phase and to prevent commencement of the second residential phase until the second mushroom production investment phase has been completed to the Council's satisfaction. On a without prejudice to any future decision basis, schedules setting out the basic Heads of Terms to be included within any Section 106 Agreement are contained within in the ***Appendix*** attached to this report.

6.23 The legal agreement cannot of course, ultimately, guarantee the future survival of the business but what does appear clear is that without the funding and enabling development the business will fail. Referring to the independent viability report, there are, of course, concerns that the business will fail anyway, whatever the provisions of the legal agreement, but this is a risk rather than a certainty, unlike the situation without the necessary improvements.

6.24 The scale and nature of the residential development on the Abingworth site (Site A) also needs to be limited to that set out in the proposals so that any suggestion of further development in the future is precluded by the control of land on the edge of the development area. In terms of the Chesswood site (Site B), it is considered that the Section 106 agreement should consider that the majority of the Chesswood site could not be developed in the future for non-agricultural uses and possibly further consider a use upon the restriction on the use or redevelopment of the existing buildings and hardstandings area.

6.25 As is more usual with applications of this nature, the proposed legal agreement also aims to ensure that the community facilities, the need for which is generated by the residential development on the Abingworth Nursery site (Site A) are provided as indicated in the proposals (and set out in the schedules in the Appendix) and to

clarify how such facilities are to be made available to the local community in perpetuity. Similarly, the affordable housing and local worker housing needs to be secured via the legal agreement, and the County Council is expected to require appropriate obligations to be secured by legal agreement too (as set out in the Appendix).

6.26 In terms of financial contributions, the ***Appendix*** indicates that the normal community facilities payment would be replaced by the on-site provision within the application, though around £30 000 would be paid to the Council for recycling provision. However, payments would still be required for education in the region of £284 000 to primary education, £306 000 to secondary education and £71 000 to 6th form education. Further payments are required in respect of libraries (£36 000), fire and rescue services (£16 000) as well as the provision of 5 hydrants. Other payments will be required for the future maintenance of the areas of open space/playing fields and landscaping/buffer planting which are to be transferred to the Council

6.27 As set out in the Spatial Planning Manager's comments above (paragraphs 3.30 – 3.35), it should be noted that the Community Infrastructure Levy (CIL) came into force on 6th April 2010. CIL is a new charge which local authorities are empowered, but not required, to levy on most types of development in their area. The proceeds of the levy will provide new local and sub-regional infrastructure to support the development of an area in line with the prevailing development plan. The Council is currently reviewing the Community Infrastructure Levy Regulations 2010, updates and the associated guidance before making a decision whether to apply the charging regime to new development in the District. The guidance note produced by the Communities and Local Government Department – 'Community Infrastructure Levy – An Overview' states:
"*From 6th April 2010 it will be unlawful for a planning obligation to be taken into account when determining an application for development: or any part of a development, that is capable of being charged, whether there is a local CIL in place or not, if the obligation does not meet the following tests:*

a. necessary to make the development acceptable in planning terms;
b. directly related to the development; and
c. *fairly and reasonably related in scale and kind to the development.*"

With regard to each of the tests above, the key principles of the intended planning obligation in this case can be assessed as follows;
a - they are necessary in order to make the development acceptable in planning terms. In particular, as indicated, the two applications need to be linked together in one overall S106 Agreement with the appropriate phasing; without such linkages and guarantees, the proposed residential development would not be acceptable. Similarly, it is also be necessary in order to make the development acceptable in planning terms to ensure that the scale and nature of residential development involved on Site A is limited to that set out in the proposals. The S106 Agreement also needs, in order to make the development acceptable in planning terms, to ensure that the intended community facilities are actually provided in the way indicated in the proposals and that they are maintained as such facilities for the benefit of the local community in perpetuity, or until other suitable facilities have been provided in the future.

b - All of the intended provisions are directly related to the development because of the comprehensive development approach embodied in the two planning applications and the key linkages involved.
c – The intended provisions are also fairly and reasonable related in scale and in kind to the development because of the necessary requirements to provide the opportunity for the mushroom growing business to continue to operate and the relationship between the scale of development and the viability of the development, as well as the 'enabling' provisions and the nature of the facilities required for the local community being created.
It is considered that planning obligations based on these principles, subject to the precise details, will be capable of meeting the tests as set out above and also the tests set out in Circular 05/05 Planning Obligations.

6.28 **iii) Viability of Residential Development** - Beyond the provisions of the legal agreement, it is noted that, in terms of the residential development, the independent viability report indicates that, from its assessment, the development is unlikely to provide the residual land value the landowner/developer seeks. This concern, however, is somewhat negated by the fact that a valuation has been agreed between the applicant (Abingworth Developments) and the landowner (Beamsync) and also now that Croudace Homes have become involved as the prospective developers, which would appear to indicate that there is, in fact, a viable residential development capable of implementation. This suggested issue is, therefore, less of a consideration than it might have been. However, it should be noted that a legal agreement cannot require a development to proceed or for a subsequent phase to continue beyond any first phase implemented; it can simply ensure that the residential development does not proceed out of step with the relevant phase of the modernisation programme as part of the overall improvements to the business.

6.29 **iv) Sustainability** - The issue of the sustainability of the site merits serious consideration, especially in view of the County Council's comments that the site is unsustainable. In terms of purely transport sustainability, this would in isolation be a case that could be made although as stated in the Spatial Planning Manager's response (paragraph 3.29 above), the concept of sustainability has often been interpreted to relate solely to transport sustainability (which is of course the County Council's remit to comment upon as the Highways Authority for the area) but in fact it should be applied much more widely. In respect of transport sustainability, Thakeham can be considered to be an unsustainable location as it lacks a full range of facilities, but the provision and retention of community facilities as a result of the proposed development could be said to reduce such unsustainability to a certain degree. Furthermore, were the mushroom business to close, there would be pressure to use the buildings that remain on site for alternative purposes. There is generally a policy presumption in favour of the re-use of existing buildings on the site which may make it difficult to resist a number of ad-hoc businesses occupying the site, or a similarly large user similar to the existing operation, neither of which would provide any community benefits. Certainly, the Council would be likely in most re-use options to be in a more difficult position in negotiating some of the specific community benefits provided as a part of this proposal and, for example, were the occupier or occupiers of the site to be commercial (assuming they required planning permission in the first place) the provision of, say, a village hall or shop would not be appropriate against the tests for a planning obligation.

6.30 If the buildings were to lay redundant, the significant loss of jobs (notwithstanding that a number of the employees at the company are employed from outside of the District) would mean that there were no employment opportunities in the local area of the scale currently established by Sussex Mushrooms and accordingly this too would have a negative impact upon the sustainability of the area.

6.31 The future of the two sites if the mushroom growing business were to cease to operate has to be taken into account in the consideration of the application. If not a directly comparable example, Shoreham Cement Works is a former commercial site that has lain predominantly derelict since its main use ceased some time ago. Of more relevance, is that both this Council and Adur District Council (the site straddling the local authority boundary) have found it difficult to resist uses of the site for storage purposes (one such use being allowed on appeal) even though such uses have often been visually intrusive, and for a site in a prominent location now in the National Park. It would be similarly difficult to resist such uses were the sites (both Site A and Site B) to become vacant and, in the absence of a wider redevelopment plan, would be particularly difficult to resist various uses on a temporary basis. Few of the buildings on the Abingworth site (Site A) in particular can be said to enhance the character of the countryside, but the re-use of such buildings remains encouraged by Government guidance.

6.32 The proposals for the Chesswood site (Site B) have also been challenged on the basis that some 8 hectares of Grade 2 agricultural land would be built on, resulting in the loss of this resource for future generations, in contravention of the sustainable development requirements. It has been suggested that instead the new mushroom buildings could be built on the existing building and hard-standing footprint. It is not considered that this 'loss' of agricultural land to a horticultural operation is in any sense an overriding consideration or in conflict with the adopted planning policies; it has to be balanced with the retention and restoration for agriculture or horticulture of other land within the two sites as well as the fact that the land involved could not in any case be used for agriculture independently from the current mushroom growing operations. Furthermore, the suggested alternative approach within the mushroom growing site (Site B) is not practicable for operational, and therefore viability, reasons, in order to ensure the continuity of mushroom production.

6.33 **v) Assessment of Material Considerations** - As a result of the above assessment, therefore, it is considered that, notwithstanding that the residential development planning application (DC/10/1314) is not in accordance with the development plan, there are in considering the applications jointly relevant material considerations of sufficient weight to justify a determination otherwise than in accordance with the development plan. It is appropriate to support the applications in principle, given that the resultant immediate retention of the business and consequent retention of jobs; the environmental enhancement through the removing of existing buildings; the consolidation of the business onto an improved single site; the provision of local community facilities, the provision of housing meeting local needs in terms of affordable housing; the 'local worker' housing and dwellings for occupation by over 55s, and indeed the provision of some market housing (given that, at present, the authority remains in a difficult position in relation to housing land supply); could meet the wider corporate objectives of the District Plan and the spatial objectives and

economic development policies of the Core Strategy (as set out in paragraph 3.11 above).

6.34 If such support is to be given, however, due to the unique circumstances of the proposal, it should not be forgotten that both applications must still be acceptable in other more straightforward development management terms since they both are, leaving aside economic development considerations aside, major applications.

6.35 In the light of the consultation responses summarised above, further progress has been made in relation to the issues initially identified and the position on the key considerations in such development management terms is as follows:

6.36 **a) Design and Layout, including landscaping and sustainable construction** - in the light of the comments made on the design and layout of the development a number of amendments have been made to the plans originally submitted. A composite list and clear description of the amendments has been provided and the amended plans have been published / circulated for consultation. In summary, the amendments comprised:

- revised use of materials
- amended design of some dwellings, resulting in the submission of a greater number of house type to provide increased variety
- revised orientation of several of the 55+ dwellings to address the main street in the proposed development
- amended fenestration details to a number of the proposed dwellings to provide natural surveillance and more active frontages over some of the footpaths on the site
- amended design for the village hall
- redesign of some of the proposed car barns

6.37 Any third party comments regarding the specific amendments will reported verbally at the Committee. However, the Design & Conservation Advisor has already confirmed that, in themselves, the amendments have made a number of improvements to the scheme. She has also confirmed separately that there is no concern regarding the setting of the Conservation Area in relation to the new development. However, it must also be pointed out that she maintains an objection to the application in terms of its layout.

6.38 As with a number of comments, they must be viewed in the wider context. The layout of the scheme is very much borne out by the necessity to provide the appropriate facilities which the community has expressed a wish for if the development is to go ahead. The cricket pitch, for example, governs much of the layout to the northern part of the development while the requirement for over 55s housing means that the layout in the central part of the site is more of a tighter cluster. Overall, the proposed development is of low density and would compare favourably to the existing residential development to the west in its visual effect upon the character of the area.

6.39 Given the proactive stance adopted by the Council in terms of the wider redevelopment proposals, it is not considered that a fundamental alteration to the

layout of the site could be justified since it is likely to result in an adverse impact upon the proposed community facilities by either there relocation or deletion. It should also be noted that the applicants have confirmed their commitment to achieving Code Level 4 under the Code for Sustainable Homes which exceeds the policy requirement of the Local Development Framework, with in the past new dwellings often being provided at Code Level 3.

6.40 With regard to landscaping, the requested cross-section information has been provided which has demonstrated that particularly careful consideration will need to be given to the southern part of the development close to the sandstone ridge. It will be seen from his comments that the Landscape Architect still has a number of concerns regarding the development and it is considered that the detailed aspects of his concerns would form part of the Landscape Management Report that can follow as part of the discharge of the appropriate planning conditions on any consent.

6.41 It will be necessary to ensure, therefore, that the landscaping conditions are particularly robust and consideration is being given as to whether any of the landscaping provision that is considered of primary importance can be incorporated within the legal agreement to ensure its retention for perpetuity. It should be noted, too, that given the phased approach to the development, the opportunity for landscaping requirements to be properly assessed, reviewed and provided exists far more than on a development which is built in its entirety shortly after a planning permission is granted. It is anticipated that the inevitable visual impact of any new development can be far softened by the provision of appropriate landscaping taking account of the phasing of the proposal.

6.42 With regard to trees, the original concerns raised by the Council's Arboricultural Officer are likely to be addressed subject to the submission of appropriate information. It will be necessary to deal with this and other outstanding matters during delegation, should the Members wish to proceed to a resolution of delegated approval (delegation is always necessary where a legal agreement is to be completed subsequent to the Committee).

6.43 **b) Affordable Housing** – it has been confirmed that discussion with an appropriate Registered Provider on the management of the 12 affordable housing units are at an advanced stage. The nature and management of the 20 key worker dwellings has also been clarified; they will be provided for 'local workers', including employees of Sussex Mushrooms, at no more than 80% of market rent. Should the premises not be taken up by employees, the accommodation will be made available giving priority to local residents within Thakeham Parish at 80% open market value, or in the event of no such suitable occupants, then to agricultural workers or associated industries within Horsham District. The Housing Strategy and Development Manager has confirmed that, having regard to the wider strategic importance of the site, he is content with these arrangements, subject to the inclusion of the necessary provisions in the S106 Planning Obligation.

6.44 **c) Contamination** – The Public Health & Licensing Officer has commented that the submission of that a Desk Study alone is insufficient to fulfil the requirements of annex 2 of PPS23 and that the applicant should be required to provide more

detailed site specific information to determine the presence, nature and extent of any contamination at the site.

6.45 Consideration has been given whether the imposition of relevant conditions would be sufficient to secure the information required. However, it is important to note the Public Health & Licensing Officer further comments that should it be chosen to deal with the site contamination by way of conditions as opposed to dealing with it before approval is given, it is possible that some parts of the site with planning permission for residential development may not be able to be developed safely once investigation results are available. Given the delicate viability of the scheme and its dependence upon the residential development to secure the future of the company, it is quite clear that any reliance upon conditions, therefore, would be wholly unsatisfactory.

6.46 The Public Health & Licensing Officer has set out in some detail the information required to satisfy the contamination issue and this includes a preliminary risk assessment, a site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken and a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

6.47 Should members resolve to grant permission for the applications, therefore, any delegation of the schemes must be subject to, amongst other matters, a satisfactory resolution of the contamination issues prior to the issuing of any decision. Should those matters be unable to be resolved satisfactorily, then the applications would need to be brought back to the Committee for further determination.

6.48 During preparation of this report, a detailed Soil report was submitted by the applicants. Any further comments as a result of its consideration will be reported verbally at the meeting.

6.49 **d) Air Quality** – The Public Health & Licensing Officer has made detailed comments in respect of this issue and it is material to the consideration of the proposals that the centre of Storrington is an Air Quality Management Area (AQMA)

6.50 It is apparent that, as with contamination, the information submitted regarding Air Quality has not, as yet, been of sufficient detail. PPS23 is quite clear in the necessity to submit such information prior to the determination of an application. Of especial relevance is Appendix 1G of PPS23 entitled ‘Air Quality as a Material Consideration in Development Control Decisions’.

6.51 The guidance states that the impact of development upon ambient air quality is likely to be particularly important on development either inside or adjacent to an AQMA and where to grant planning permission would conflict with, or render unworkable, elements of a Local Authority’s air quality action plan. The sites are about two miles from the AQMA but will generate traffic, some of which will pass through the AQMA

and add to pollution levels. Whilst an Air Quality Action Plan is under preparation it has not yet been finalised. Completion is anticipated in June 2011.

6.52 The guidance states that the impact of development upon ambient air quality is likely to be particularly important on development either inside or adjacent to an AQMA and where to grant planning permission would conflict with, or render unworkable, elements of a Local Authority's air quality action plan.

6.53 The guidance goes on to state that all planning applications should be supported by such information as is necessary to allow a full consideration of the impact of the proposal upon the air quality of the area. It is evident that neither application is yet supported by such information.

6.54 On this basis, it could be argued that the lack of information submitted with the information is sufficient basis to warrant a refusal on such grounds. However, the guidance also states that 'it is not the case that all planning applications for developments inside or adjacent to AQMAs should be refused if the development would result in a deterioration of local air quality.' Such an approach, it is stated, could 'sterilise development'.

6.55 Having regard, therefore, to the wider context of this application, it is considered that appropriate mitigation measures should be pursued. The mitigation measures contained within the information received thus far are not considered sufficient and therefore it will be necessary to require additional measures to be secured and agreed during the delegation period.

6.56 Members should also note that a routing agreement, as suggested in the draft Low Emission Strategy, cannot be secured by condition and is therefore likely to be unenforceable, and although a 'Good Practice' management plan in respect of routing could be agreed with the applicants, the Council is unlikely to be able to secure a satisfactory remedy in the event of any breach of such agreement.

6.57 **e) Odour Emissions -** It has also been confirmed that it is considered that the matters relating to odour impacts are best dealt with under other legislation and need not form a further part of the planning application consideration. However, it remains the case that since odour has been, and remains, an issue not only at this site but other similar sites elsewhere in the country, then only a proactive approach is ever going to reduce the problems to at least an acceptable level.

6.58 **f) Nature Conservation** – The comments from statutory external consultees have indicated that further information is required. Natural England, the Environment Agency, the Senior Ecologist at West Sussex County Council [redacted] all require further survey work to be carried out. Further work involving the undertaking on an ecological survey has therefore been commissioned by the applicants and the resultant report is likely to be available prior to the meeting and, therefore, a verbal update given.

6.59 It is considered disappointing that the relevant information has not been submitted earlier, since with particular reference to the concerns of the Environment Agency in respect of nature conservation, it is quite clear that the applicants were advised of

the required information prior to the submission of the application, yet at no point has it been received. While at no time has it been indicated by the consultees concerned that any issues could not be overcome by the sufficient information, nonetheless it would be inappropriate for any permission to be granted either prior to the submission of the required information, or the receipt of satisfactory comments from consultees. Indeed, having regard to the requirement of the Habitats Directive in relation to protected species, it would be unlawful of the Council to do so.

6.60 The applicants are now aware of their responsibilities in this regard and, as stated earlier, have now commissioned further survey work. The resolution of the outstanding issues will be need to be achieved under the delegation period and, if such a resolution cannot be achieved, the permission shall not be issued. In such circumstance, it would thus be necessary for the application to be reported back to the Committee.

6.61 **g) Foul Drainage** – Southern Water has sought further clarification regarding DC/10/1316 and any progress on that matter will be reported verbally to the committee. However, the outstanding points in relation to DC/10/1314 have been resolved satisfactorily and so therefore it is anticipated that a similar outcome will result in respect of DC/10/1316.

6.62 **h) Highways** – West Sussex County Council has confirmed its position on the highways issues and has not raised any objection on highway safety or capacity grounds, although it continues to have concerns on sustainability grounds (which are addressed in paragraph 6.29 above). The County Council has recommended a number of appropriate planning conditions on any consent and has advised that a legal agreement needs to be entered into with the County Council as Highway Authority to cover the off-site highway works. It has also requested that the S106 Planning Obligation should include provision for the scheme of traffic calming to be provided in a reasonable time (it is suggested that this should be prior to the occupation of 50% of the dwellings) and for a Travel Plan to be provided and implemented prior to the first occupation of the any dwelling.

6.63 **Overall Conclusions** - These applications have been amongst the most finely balanced that the Council has had to consider for some time. This is demonstrated in the number of representations received, just over 400, and their composition, with about 54% of respondents supporting the applications and 46% against. Set against those figures, is the indication that the many of the supporters of the application live outside the District, which should be given some weight, but also an indication in terms of job numbers of the importance of Sussex Mushrooms. There can, therefore, be no easy way forward in determining the applications. To refuse the proposals would certainly result in the demise of the Company, the consequent loss of jobs and a significant impact upon the local economy, together with issues relating to the subsequent future of the sites. An independent report, but submitted by the applicant, suggests that there would be a loss of £3 million ‘local supplier’ spending were the Company to close. Additionally, there would be the loss of potential future jobs were the company to expand successfully as well as those associated with the construction of the development and the new facilities.

6.64 The proposals for residential development do, as indicated, represent a significant departure from the development plan and the developments as a whole would, of course, have a significant impact upon Thakeham and to a lesser extent, Storrington. These effects when balanced against the economic benefits outlined above need not be considered wholly negative. Indeed, the proposals offer a rare opportunity to meet the local needs of both an important rural business and those of residents. To achieve this, requires a development of extremely high quality; whilst initially there were some important matters to be addressed, the issues previously identified in this context have now largely been resolved. In conclusion, therefore, it is considered that the recommendation on both applications, after a number of months of very careful consideration, is that they should be supported in principle, but delegated to resolve satisfactorily the outstanding issues in relation to both contaminated land and nature conservation matters and to complete the necessary legal agreement (S106 Planning Obligation), as expeditiously as possible so as to enable the required improvements to the composting operation to go ahead swiftly.

7. RECOMMENDATIONS

7.1 It is recommended that both planning applications be DELEGATED FOR APPROVAL to the Head of Planning and Environmental Services in consultation with the Ward Members and the Chair of the Committee, in order to resolve the following outstanding issues prior to the issuing of any decision

- the provision of detailed site specific information to determine the presence, nature and extent of any contamination at the site and any remediation measures deemed necessary.

- the provision of a suitable mitigation measures to offset the impact of the development upon the Storrington Air Quality Management Area

- the submission of required details and the receipt of satisfactory comments from consultees in respect of nature conservation

and subject to the completion of a S106 Planning Obligation requiring that:

- the two applications are linked together in one overall S106 Agreement, which deals with the necessary linkages between the two proposals so that the delivery of the defined investment into the mushroom business is ensured. This will require covenants to prevent commencement of the first phase of the residential development until the first phase of the mushroom production investment has been completed to the Council's satisfaction and to require rapid progress with commencement of the second investment phase and to prevent commencement of the second residential phase until the second mushroom production investment phase has been completed to the Council's satisfaction;
- all the tenants and the mortgagees involved with the two sites are properly bound by the provisions of the S106 Agreement as well as the owners and developers;

- the scale and nature of residential development involved on the Abingworth Farm site is limited to that set out in the proposals and that any potential future expansion of development is precluded by the control/ownership of land (open space or landscaping fringes) on the edge of the proposed development area;
- the majority of the Chesswood site is only available for appropriate horticultural or related uses, and cannot be redeveloped for more intensive non-agricultural uses in the future;
- a limitation is placed on any future alternative use of the Chesswood site/buildings, restricting such use to the existing/permitted buildings and hardstanding area and to provide for future Council control of any areas outside this area but within the overall Chesswood site that become surplus to requirements of the mushroom growing, or other horticultural, business in the future;
- the intended community facilities are actually provided in the way indicated in the proposals and that they are maintained as such facilities for the benefit of the local community in perpetuity, or until other suitable facilities have been provided in the future;
- the appropriate commuted payments for the maintenance of open space/recreation facilities and community buildings are secured;
- the provision of the intended affordable housing is made through an appropriate Registered Provider in the normal way, with the nomination rights giving the priority to local residents from within Thakeham Parish, or in the event of no such suitable occupants, from the immediately adjoining Parishes;
- the local worker housing is aimed at defined groups of people living or working within the District and meeting the agreed definition of such 'local worker', including employees of Sussex Mushrooms or any successor, rather than being purely 'open market' housing for purchase or rent,
- the requirements from the County Council in respect of traffic calming works and a Travel Plan are met; and
- securing the necessary financial payments towards local recycling provision, education provision, library provision, fire and rescue service provision and fire hydrants.
- securing the planting and maintenance in perpetuity of the instant hedging (as referred to in the submitted drawings) on the sandstone ridge to a large size nursery stock of a minimum of 2m height at the time of planting, planted minimum 3m width (thick hedge is needed to ensure winter screening) and of native species with any future removal prevented
- if necessary, the securing of suitable mitigation measures to offset the effect of the development upon the Storrington Air Quality Management Area

And the imposition of the following indicative conditions, and additionally any further required by consultees, which are considered reasonable and appropriate, upon the receipt of the additional required information:

DC/10/1314

01 A2 Full Permission
02 D6 Finished Floor Levels
03 E4 Fencing

04 G6 Recycling
05 J10 Removal of Permitted Development Rights
06 L9 Wildlife Protection
07 L10 Arboricultural Method Statement
08 M1 Approval of Materials
09 O1 Hours of Working
10 O2 Burning of Materials
11 S1 Restriction on Occupation (drainage)
12 S2 Restriction on Occupation (sewage)
13 S4 Surface Water Drainage

14 No ground excavations landscaping works or infrastructure works pursuant to the planning permission will commence on the site until the implementation of a programme of archaeological work in accordance with a suitable Written Scheme of Archaeological Investigation which has been submitted to the Local Planning Authority and agreed in writing.

Reason: To ensure appropriate investigation and recording of buried archaeological Heritage Assets on the site before or during new building, infrastructure and landscaping works.

15 No alteration or demolition works pursuant to the planning permission will commence on the site until the implementation of a programme of historic building archaeological recording (derelict barn and outbuildings) in accordance with a suitable Written Scheme of Archaeological Investigation which has been submitted to the Local Planning Authority and agreed in writing.

Reason: To ensure that an archaeological record is made of the historic barn and outbuildings heritage assets during its alteration or demolition.

16 The development, hereby approved, shall not be occupied until such time as the proposed junctions onto the B2139 Storrington Road serving the development have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The submitted details shall include visibility splays of 2.4 by 59metres, which are required at each access.

Reason: In the interests of road safety.

17 The dwellings hereby permitted shall not be occupied until the road(s) serving the development have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To secure satisfactory standards of access for the proposed development

18 No part of the development, hereby approved, shall be occupied until such time as the car parking spaces serving the respective phase or element of development have been constructed in accordance with plans and details submitted to and approved by the Local Planning Authority. These spaces shall thereafter be retained at all times for there designated use.

Reason: To provide car-parking space for the dwellings.

19 No works shall commence until such time as a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The construction management plan shall include but not be limited to include details of the phasing of development and vehicle routing to and from the development site.

Reason: In the interests of road safety.

20 No part of the development, hereby approved, shall be occupied until such time as the proposed footway improvements and respective pedestrian crossing points along Storrington Road have been provided in accordance with the approved plans and a construction specification submitted to and improved in writing by the Local Planning Authority.

Reason: In the interests of road safety.

21 No construction works shall commence until such time as plans and details of improvements to the rights of way network in the vicinity of the development have been submitted to and agreed in writing with the Local Planning Authority in conjunction with WSCC Rights of Way team. These improvements shall thereafter be implemented in accordance with an agreed timetable.

Reason: To safe guard and improve the existing rights of way network within the vicinity of the development.

22 No construction or associated site clearance work shall be carried out on the site unless and until an effective vehicle wheel-cleaning facility has been installed in accordance with details provided by the Local Planning Authority and such facility shall be retained in working order and throughout the period of work on site to ensure the vehicles do not carry mud and earth on to the public highway, which may cause a hazard to other road users.

Reason: In the interests of road safety.

23 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that adequate means of foul and surface water sewerage disposal are provided in accordance with policy CP13 of the Cors Strategy of the Horsham District Local Development Framework.

24. The development of the site shall be carried out in accordance with the approved Remediation Strategy.

Reason: To ensure that a suitable remediaition measures are identied.

25. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an amendment to the Remediation Strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the effects of any additional contamination are satisfactorily controlled.

26. Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To ensure that the effects of any contamination are suitably mitigated against.

27 Prior to the commencement of development, a Low Emission Strategy (LES) for the development during both construction and operational phases shall be submitted to and approved by the Local Planning Authority and the approved details maintained thereafter.

Reason: To ensure that a suitable Low Emission Strategy is agreed to offset the impact of the development hereby approved.

28 No works or development shall take place until full details of the hard and soft landscape scheme have been submitted and approved in writing by the local planning authority. These details shall comprise:

- A detailed plan and specification for topsoil stripping, storage and re-use on the site in accordance with recognised codes of best practice
- Contour plans, proposed and existing levels, and cross/long sections for all earthworks on the site, including those for the proposed ornamental and wildlife pond and associated with the allotments and housing in the southern part of the site
- Planting/Seeding plans and schedules specifying species, planting size, densities and plant numbers
- Tree pit and staking/underground guying details
- A written specification (National Building Specification compliant) of planting (including cultivation and other operations associated with plant and grass establishment).
- Hard surfacing materials- layout, colour, size, texture, coursing, levels
- Walls, fencing and railings- location, type and materials

- Minor artefacts and structures - location and type of street furniture, play equipment, refuse units and lighting columns and lanterns

Notwithstanding the landscape strategy proposals shown on plan no L2002B sheets 1 and 2 the landscape scheme required above shall include :

- Provision of a broad 5m width informal hedgerow with hedgerow trees on the northern boundary of the site, adjacent to the proposed housing and sports pitches.
- Provision of a minimum of 3m width hedgerow (hedgerow shrubs only) on the boundary with the allotments (tie in with my recommendations for the legal agreement)
- Provision of a 2.5m width of hedgerow planting between the proposed workshops and the existing pond, retaining existing vegetation, where space for construction of the workshops allows
- Detailed proposals for the main access road landscaping taking account of local character and distinctiveness
- Detailed proposals for retention, management and enhancement with new planting of the existing hedgerow and hedgerow trees on Storrington Rd, adjacent to the key worker housing

The approved landscape scheme for all boundary hedgerow and structure planting shall be implemented in the first planting season following the commencement of any works on the site and those for other planting areas carried out prior to the occupation of any part of the development for its permitted use, or according to a timetable to be agreed with the Local Planning authority.

Any plants which within a period of 5 years die, moved, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local -Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

29 No works or development shall take place until full details of underground services – locations, dimensions, depths have been submitted to and approved by the local planning authority. These details shall demonstrate effective coordination with the detailed landscape proposals submitted pursuant to Condition 15 above.

Reason: To ensure the underground services do not conflict with satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

30 Prior to the commencement of any works on site a long term Landscape Management and Maintenance Plan for the whole development site shall be submitted to and approved in writing by the LPA.

The plan shall include:

- Aims and Objectives
- A description of Landscape Components
- Management Prescriptions
- Details of maintenance operations and their timing
- Details of the Parties who will be responsible for maintaining different areas of the site

It shall demonstrate full integration of landscape, biodiversity and arboricultural considerations.

The areas of landscaping and open space shall thereafter be maintained in accordance with the approved Landscape Management and Maintenance Plan, unless any variation is approved in writing by the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

31 Prior to the commencement of any works on site full details of the tree and hedge protection proposed shall be submitted to and approved in writing by the LPA along with details of existing levels in the vicinity of existing trees and hedges to ensure that the vertical alignment of no-dig construction areas relate to surrounding finished levels. No-dig construction techniques in the RPA of existing trees and hedges to be retained must be carried out in accordance with BS5837 and the methods set out in the Arboricultural Survey are adequately followed through into the detail design stage to the satisfaction of the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

32 Other than agreed as part of this planning application no trees, hedges or shrubs on the site, shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the LPA until 5 years after completion of the development herby permitted. Any trees, hedges or shrubs on the site, whether within the tree protective areas or not, which die or become damaged during the construction process shall be replaced with trees, hedging plants or shrubs of a type, size and in positions agreed by the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

INFORMATIVES

1 Further to Condition 30 above, the applicant is expected to refer to the following table in agreeing a suitable Low Emission Strategy

Low Emission Strategy Proposals for the Abingworth Developments

According to the Low Emission Strategies: SPD Guidance Assessment Criteria (January 2011), a development of >50 dwelling houses is categorised as a major development. The Guidance lists a number of mitigation measures covering both the construction and operational phases of the development. The following mitigation measures represent the minimum requirements for a Low Emission Strategy for this scale of development. The final LES should be submitted by the developer for approval by Horsham District Council.

Phase	Mitigation Measures	Notes
Construction Phase	Routing of all construction vehicles/deliveries to avoid Storrington AQMA.	
	On-road vehicle specification to Euro standard IV or above.	
	Comply with London Code: Reducing Emissions from Construction & Demolition Sites (GLA).	
Operational Phase	Provision of electric vehicle re-charging infrastructure provision for new developments	▪Houses with off-road parking – 1 charging point per unit. ▪Houses with on-road parking – 1 charging point per 10 units. ▪Community facilities/visitor parking – charging points provided in 10% of parking spaces with cabling to allow 30 – 50% in future years.
	Provision of Low Emission minibus serving Abingworth developments to improve public transport links.	▪To provide low emission public transport option for residents using Pulborough main line station.Timed to allow commuters' access to trains to/from London. ▪To provide low emission public transport for employees accessing the Abingworth/Chesswood sites. ▪To provide low emission public transport for school pupils attending local schools. ▪To provide low emission public transport for residents using facilities in Storrington. ▪Low emission minibus to be promoted via Travel Plan Coordinator to encourage uptake and maintain use of service.
	Developer contribution in respect of the residual road transport emissions.	Section106 contribution would be used to support implementation of the

		Storrington AQMA Action Plan and for other low emission initiatives.

2 The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works, which includes the new junctions, footway works and traffic calming measures. The applicant is requested to contact The Implementation Team Leader, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ. (Tel no.01243 642105).

3 In the event that West Sussex County Council require implementation of a traffic calming works on Storrington Road there should be liaison with the District Council Landscape Architect to ensure a sensitively designed scheme in terms of kerb alignments, surface materials, street furniture and planting.

DC/10/1316

01 A2 Full Permission
02 D6 Finished Floor Levels
03 L1 Hard and Soft Landscaping
04 L4 Landscape Management Plan
05 L9 Wildlife Protection
06 L10 Arboricultural Method Statement
07 M1 Approval of Materials
08 O1 Hours of Working
09 O2 Burning of Materials
10 S1 Restriction on Occupation (drainage)
11 S2 Restriction on Occupation (sewage)
12 S4 Surface Water Drainage

13 No ground excavations landscaping works or infrastructure works pursuant to the planning permission will commence on the site until the implementation of a programme of archaeological work in accordance with a suitable Written Scheme of Archaeological Investigation which has been submitted to the Local Planning Authority and agreed in writing.

Reason**:** To ensure appropriate investigation and recording of buried archaeological Heritage Assets on the site before or during new building, infrastructure and landscaping works.

14 No alteration or demolition works pursuant to the planning permission will commence on the site until the implementation of a programme of historic building archaeological recording (derelict barn and outbuildings) in accordance with a suitable Written Scheme of Archaeological Investigation which has been submitted to the Local Planning Authority and agreed in writing.

Reason: To ensure that an archaeological record is made of the historic barn and outbuildings heritage assets during its alteration or demolition.

15 The development, hereby approved, shall not be occupied until such time as the proposed junctions onto the B2139 Storrington Road serving the development have been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The submitted details shall include visibility splays of 2.4 by 59metres, which are required at each access.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

16 The development hereby permitted shall not be occupied until the road(s) serving the development have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

17 No part of the development, hereby approved, shall be occupied until such time as the car parking spaces serving the respective phase or element of development have been constructed in accordance with plans and details submitted to and approved by the Local Planning Authority. These spaces shall thereafter be retained at all times for there designated use.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

18 No works shall commence until such time as a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The construction management plan shall include but not be limited to include details of the phasing of development and vehicle routing to and from the development site.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

19 No part of the development, hereby approved, shall be occupied until such time as the proposed footway improvements and respective pedestrian crossing points along Storrington Road have been provided in accordance with the approved plans and a construction specification submitted to and improved in writing by the Local Planning Authority.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

20 No construction works shall commence until such time as plans and details of improvements to the rights of way network in the vicinity of the development have

been submitted to and agreed in writing with the Local Planning Authority in conjunction with WSCC Rights of Way team. These improvements shall thereafter be implemented in accordance with an agreed timetable.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

21 No construction or associated site clearance work shall be carried out on the site unless and until an effective vehicle wheel-cleaning facility has been installed in accordance with details provided by the Local Planning Authority and such facility shall be retained in working order and throughout the period of work on site to ensure the vehicles do not carry mud and earth on to the public highway, which may cause a hazard to other road users.

Reason: In the interests of road safety in accordance with policy DC40 of the General Development Control Policies Document of the Horsham District Local Development Framework.

22 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that adequate means of foul and surface water sewerage disposal are provided in accordance with policy CP13 of the Core Strategy of the Horsham District Local Development Framework.

23 No works or development shall take place until full details of the hard and soft landscape scheme have been submitted and approved in writing by the local planning authority. These details shall comprise:

- A detailed plan and specification for topsoil stripping, storage and re-use on the site in accordance with recognised codes of best practice
- Contour plans, proposed and existing levels, and cross/long sections for all earthworks on the site, including those for the relocated reservoir, balancing pond and lowered ground levels and embankments associated with the new factory buildings
- Planting/Seeding plans and schedules specifying species, planting size, densities and plant numbers
- Tree pit and staking/underground guying details
- A written specification (National Building Specification compliant) of planting (including cultivation and other operations associated with plant and grass establishment).
- Hard surfacing materials- layout, colour, size, texture, coursing, levels
- Walls, fencing and railings- location, type and materials
- Minor artefacts and structures - location and type of street furniture, play equipment, refuse units and lighting columns and lanterns

Notwithstanding the landscape strategy proposals shown on plan no L2002B sheets 1 the landscape scheme required above shall include:

- Provision of structure planting adjacent to the existing hedgerow between Storrington Road and the factory buildings, including in the island verge at the entrance to the site.

The approved landscape scheme for all boundary hedgerow and structure planting shall be implemented in the first planting season following the commencement of any works on the site and those for other planting areas carried out prior to the occupation of any part of the development for its permitted use, or according to a timetable to be agreed with the Local Planning authority.

Any plants which within a period of 5 years die, moved, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local -Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

24 No works or development shall take place until full details of underground services – locations, dimensions, depths have been submitted to and approved by the local planning authority. These details shall demonstrate effective coordination with the detailed landscape proposals submitted pursuant to Condition 15 above.

Reason: To ensure the underground services do not conflict with satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

25 Prior to the commencement of any works on site a long term Landscape Management and Maintenance Plan for the whole development site shall be submitted to and approved in writing by the LPA.

The plan shall include:

- Aims and Objectives
- A description of Landscape Components
- Management Prescriptions
- Details of maintenance operations and their timing
- Details of the Parties who will be responsible for maintaining different areas of the site

It shall demonstrate full integration of landscape, biodiversity and arboricultural considerations.

The areas of landscaping and open space shall thereafter be maintained in accordance with the approved Landscape Management and Maintenance Plan, unless any variation is approved in writing by the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

26 Prior to the commencement of any works on site full details of the tree and hedge protection proposed shall be submitted to and approved in writing by the LPA along with details of existing levels in the vicinity of existing trees and hedges to ensure that the vertical alignment of no-dig construction areas relate to surrounding finished levels. No-dig construction techniques in the RPA of existing trees and hedges to be retained must be carried out in accordance with BS5837 and the methods set out in the Arboricultural Survey are adequately followed through into the detail design stage to the satisfaction of the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

27 Other than agreed as part of this planning application no trees, hedges or shrubs on the site, shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the LPA until 5 years after completion of the development herby permitted. Any trees, hedges or shrubs on the site, whether within the tree protective areas or not, which die or become damaged during the construction process shall be replaced with trees, hedging plants or shrubs of a type, size and in positions agreed by the LPA.

Reason: To ensure a satisfactory development in the interests of amenity in accordance with Policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007)

INFORMATIVES
The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works, which includes the new junctions, footway works and traffic calming measures. The applicant is requested to contact The Implementation Team Leader, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ. (Tel no. 01243 642105).

8. **REASONS**

For both applications: It is considered that a decision not in accordance with the development plan is justified by material considerations of sufficient weight, namely that the proposals are in the long terms interests of the community and the District as a whole; by taking a proactive approach it is possible to seek to ensure that a significant local business modernises its operations with the anticipated reduction in odour, together with the protection of existing and future employment opportunities. In this way it is possible to support the local economy as well as to provide a form of

residential development that enables these provisions to be made and also meets local requirements in respect of over 55s accommodation, affordable housing and key worker accommodation and ensures the provision of additional and enhanced community facilities.

9. APPENDICES

APPENDIX: S106 PLANNING OBLIGATIONS- KEY PRINCIPLES/HEADS OF TERMS - HORSHAM DISTRICT COUNCIL

Please note this is a general summary of the key principles/heads of terms of the planning obligations which should be read in conjunction with the comments in the report. The details and mechanism by which they would be secured in the context of the legal agreement will be subject to further negotiations.

Item	Amount/Specification	Timing
1. Works on Chesswood Site (Site B)	Phase 1- Aerated compost bunkers and preparation work: £1.85m (£1.5m contribution) Phase 2 – Consolidate operations on to Chesswood site and build 12 new growing tunnels: £2.34m (£1.2m contribution)	Completion of works on Chesswood site (Site B) prior to the commencement of any residential development on Abingworth Farm site (SiteA) Commencement before occupation of any dwelling in Phase 1 (Phase 1 housing development is defined as 52 dwellings including the 12 affordable homes) Completion of Phase 2 works at Chesswood site before commencement of Phase 2 housing (Phase 2 housing development is defined as 37 dwellings including the 20 'local worker' dwellings) on Abingworth Farm site.
2. Affordable Housing and Local Worker Dwellings	**12 affordable housing units** with Moat Housing Association: **Standard:** Code 4 minimum **Tenure:** Final tenure mix to be agreed with Council. Defined criteria for occupation to include 'cascade' giving priority to those in housing need from Thakeham Parish. **Cooperation:** Landowner/developer and HDC to work together **Occupancy:** Residents of Thakeham Parish or adjoining parishes, before rest of District **Local worker dwellings** by Abingworth Developments: Let on assured shorthold tenacies at 80% current local open market rent levels. Priority will be given to workers at the mushroom farm, then to those from Thakeham Parish and neighbouring parishes. Intention is for owner/developer to retain ownership and not for them to be transferred to an Affordable Housing	Construction within Phase 1 of residential development – not to occupy more than 40 Market Dwellings before affordable housing units transferred to Affordable Housing Provider (AHP) Commencement before start of Phase 2 of residential development on the Abingworth site and completion prior to occupation of Phase 3 of residential development. Not to occupy more than 69 dwellings in total (including the affordable housing units) until the Local Workers Dwellings have been provided and are available for occupation.

	Provider. Lettings will be dealt with by owner and not regulated in the normal way affordable housing units are regulated.	
2. Open Space/Sports facilities with Pavilion/Changing Room, allotments and landscaping	**Specification:** based on the provisions in the planning application (DC/10/1314). Includes sports pitches, cricket pavilion, football changing rooms, allotments, pond, play area (LEAP) Commuted sums for any areas dedicated to HDC, including sports pitches and allotments	Provided Phase by Phase in step with each of the 4 Phases of the residential development – need to detail a programme for each Phase and its related areas of open space/sport facilities provision/allotments. Cricket pitch and pavilion, football pitch and changing room, children's' play area, landscaped areas, and allotments each to be transferred to the Council for a sum of £1 for a freehold estate, together with appropriate commuted sum for maintenance. Pond area to be retained and managed by landowner/developer or other management body
3. Village Hall Building (with shop and surgery) **and Pre-School Play Group Building**	Village Hall to be provided for sum of £1 for a freehold estate as per specification in planning application (DC/10/1314) and transferred to Thakeham Village Hall Trust with appropriate commuted sum for future maintenance To use all reasonable endeavours to procure the letting of the shop – to be run as a village shop for at least 5 years Pre-School Play Group Building to be provided for sum of £1 for a freehold estate as per specification in planning application and transferred to Thakeham Pre-School Trust.	Freehold transfer of completed building to Thakeham Village Hall Trust (or the Council) - to be constructed during Phase 1 of the residential development and completed and transferred by 52nd Dwelling (including the 12 affordable units. Freehold transfer of completed building to Thakeham Pre-School Trust – to be constructed during Phase 2 of the residential development and completed and transferred by 52nd Dwelling.
4. Buffer Zone	Land to be reserved and set aside until transferred to the Council for a sum if £1 for a freehold estate, together with appropriate commuted sum for future maintenance. Specification to be agreed to include fencing, landscaping and layout of defined area.	Transfer of buffer zone land with appropriate commuted payment for future maintenance to take place before construction of Phases 3 and 4 of residential development on Abingworth site, with specified works to the area to be completed by the landowner/developer during these phases of construction.
5. Restrictive and Other Covenants	1. Not to use retained land on Abingworth Farm site (Site A) otherwise than for agricultural and horticultural purposes 2. Not to erect or allow to remain on Abingworth Farm site, including local worker dwellings, more than146 dwellings 3. Not to use shop at Village Hall for any purposes other than commercial within Use Classes A1, A2 or B1(a) or educational or leisure uses 4. Not to use the pond area for other than amenity open space 5. Not to use each and every part of the Chesswood site (Site B), excluding the local workers dwellings area, for residential purposes 6. Not to use the defined western area of the Chesswood site otherwise than for agricultural or horticultural purposes. Any future alternative use of the eastern, operational part of the Chesswood site to be limited to the existing buildings/hardstanding areas, as	All to be incorporated with appropriate covenants/clauses relating to the specific requirement identified

	defined	
6. Recycling	Specification for any local recycling facilities required within the residential development to be agreed Payment of contribution of £30k for facilities	Provided as appropriate in step with each of the 4 Phases of the residential development, including payment of contribution (50% on or before implementation date)
7. Public Art	Construction, laying out and dedication to the Council of defined area of open space around restored Penn Memorial- approved through conditions maintained pending any transfer to HDC plus commuted sums if transferred	Before commencement of Phase 3 of residential development on Abingworth Farm site.

APPENDIX: S106 PLANNING OBLIGATION – KEY PRINCIPLES/HEADS OF TERMS - WEST SUSSEX COUNTY COUNCIL

Please note this is a general summary of the key principles or heads of terms of the planning obligations which should be read in conjunction with the comments raised in the report. The details and mechanism by which they would be secured in the context of the legal agreement will be subject to further negotiations.

Item	**Amount/Specification**	**Timing**
1. Early Yrs Provision/	Building included in scheme for Pre-School Play Group. Developer/ Owner propose to build facility and transfer to Thakeham Pre-School Trust for £1 for a freehold estate	80 Dwellings to construct and handover to Pre-School Trust
2. Primary Education Contributions	£285k: amount calculated by reference to a formula (no contributions for dwellings for over 55 age group and reduced contribution for affordable housing)	Payment of 50% on implementation of the residential development and remaining 50% on 50th Dwelling
3. Secondary School Contributions	£307k plus £72k to 6th Form education: amount calculated by reference to a formula (no contributions for dwellings for over 55 age group and reduced contribution for affordable housing)	Payment of 50% on implementation of the residential development and remaining 50% on 50th Dwelling
4. Library Services	£37k: amount calculated by reference to a formula	Payment of 50% on implementation of the residential development and remaining 50% on 50th Dwelling
5. Fire and Rescue Service	£16k: amount calculated by reference to a formula	Payment of 50% on implementation of the residential development and remaining 50% on 50th Dwelling
6 Fire Hydrants	Provision to meet requirements of WSCC in consultation with West Sussex Fire Brigade	Prior to first occupation of any Dwelling
7. Travel Plan Co-ordinator	To be nominated and appointed by developer and remain in post for 10 years from Commencement	Nominated prior to first occupation of any Dwelling
8. Promotional Material	To draw Travel Plan to attention of all first purchasers tenants and occupiers	Throughout marketing of development
9. Travel Packs	Travel Pack to set out information on public transport and alternative modes	To each new household on arrival
10. Essential Travel Plan Obligations	e.g. establishing travel plan forum managing travel plan budget undertaking surveys reviewing targets preparing and distributing travel packs	For a period starting with Commencement and ending 10 years later
11. Traffic Calming Scheme	To be confirmed by WSCC in accordance with suggested requirements in consultation response	Provision prior to the occupation of 70 dwellings

Item	Amount/Specification	Timing
12. Total Access Demand Contribution	£64k: amount calculated by reference to a formula	Stage payments payable by instalments from 70 and 140 Qualifying Dwellings
13. Highway Works - Access and Off-Site Works	As per planning application/highways agreement	In accordance with agreed build programme

Background Papers: DC/10/1314 & DC/10/1316
Contact Officer: Gary Peck