PLANNING COMMITTEE REPORT

TO:	Planning Committee North
BY:	Head of Development and Building Control
DATE:	1st October 2024
DEVELOPMENT:	Deposit of topsoil and chalk for biodiversity and agricultural improvement with improved access.
SITE:	Field Place Estate, Byfleets Lane, Broadbridge Heath, West Sussex, RH12 3PB
WARD:	Itchingfield, Slinfold and Warnham
APPLICATION:	DC/24/0220
APPLICANT:	**Name:** Mr Kenneth Prichard Jones **Address:** Reservoir Field Field Place Estate Byfleets Lane Warnham West Sussex RH12 3PB

REASON FOR INCLUSION ON THE AGENDA: Application deferred from the Planning Committee North on 4th June 2024.

RECOMMENDATION: To refuse planning permission

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application as an addendum to the committee report considered at the 4th June Planning Committee North meeting (Appended at **Appendix 1**)

DESCRIPTION OF THE APPLICATION

1.2 The planning application was considered at the 4th June 2024 Planning Committee North meeting where it was resolved to defer consideration for the following reason:

- To seek additional information on flood risk and to reconsult the Lead Local Flood Authority with the application to return to committee within 4 months.

1.3 The June committee report is attached as an addendum and forms part of the assessment of this application. The June committee report should therefore be read alongside this report.

1.4 No other aspects of the development proposals have been amended since consideration of the application at the June 2024 Planning Committee North meeting.

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:

2.2 **National Planning Policy Framework**

2.3 **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 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 30 - Protected Landscapes
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 34 - Cultural and Heritage Assets
Policy 38 – Flooding
Policy 43 - Community Facilities, Leisure, and Recreation

2.4 **Warnham Neighbourhood Plan (2019)**
There are no relevant policies within the Warnham Neighbourhood Plan.

West Sussex Joint Minerals Local Plan (2018)

Policy M9 - Safeguarding Minerals

Parish Design Statement:
Warnham Parish Design Statement

Planning Advice Note
Biodiversity and Green Infrastructure Planning Advice Note (PAN) Planning Guidance Document (HDC, 2020)

2.5 PLANNING HISTORY AND RELEVANT APPLICATIONS

PLANNING HISTORY AND RELEVANT APPLICATIONS

Reservoir Field

DC/18/1185	Prior notification under Part 6 Agriculture and forestry, Class A (b) of the General Permitted Development Order 2015 for engineering works necessary for the improvement of grassland.	Prior Approval Not Required 29 June 2018.
DC/18/1194	Lawful Development Certificate for the Creation of a 2m high earth bund to the perimeter of the Reservoir Field.	Application Refused 9 August 2019
EN/23/0404	Breach of Condition Notice. Non-compliance with DC/18/1185 - works continuing beyond 5 years in breach of conditions derived from Part 6 of the GPDO and formation of an earth bund.	Notice Withdrawn.

Lake Field

DC/19/1169	Prior notification for the creation of a new agricultural access track	Prior Approval Required and REFUSED on 27.08.2019.
DC/21/1235	Creation of access and field gates onto Old Guildford Road (west); excavation of lake; formation of banked means of livestock containment to south and eastern boundaries; and importation and deposit of soil and chalk.	Application Approved 02.07.2024
EN/20/0304	Enforcement Notice Without planning permission, the carrying out of operational works on the Land involving the importation and deposit of hard core, soils and inert waste materials to raise the level of the Land, including the formation of earth bunds, a track and hardstanding together with the associated re-grading and contouring of the Land within the red line area on the attached plan Unauthorised operational development comprising excavation of the land and engineering operations to raise the level of the land in connection with the creation of the lake and formation of earth bunds.	Served -12/03/2021 (In Progress) Subject to an Appeal Held in abeyance awaiting outcome of application DC/21/1235 (some of Enforcement Notice will fall away should this application be granted).
EN/20/0304	Temporary Stop Notice Without planning permission, the carrying out of operational works on the Land involving the importation and deposit of hard core, soils and inert waste materials to raise the level of the Land, including the formation of earth bunds, a track and hardstanding together with the associated re-grading and contouring of the Land within the red line area on the attached plan Unauthorised operational development comprising excavation of the land and engineering operations to raise the level of the land in connection with the creation of the lake and formation of earth bunds.	Served 08/07/2021. Notice Expired
EN/19/0570	Enforcement Notice Without planning permission, the construction on the land of a vehicular means of access by removal of the boundary planting and the deposit of material to form a hard surface access track and concrete apron as a crossover onto the highway	Served 08/07/2020. (Appeal Dismissed High Court Challenge also dismissed and Notice upheld – should PP be granted the Notice will need to be withdrawn

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 None

OUTSIDE AGENCIES

3.3 **WSCC Flood Risk Management**: No Objection

2nd Comments dated 6th September 2024
'The applicant has provided a Flood Risk Assessment (FRA) and additional information to account for the local flood risk issues and surface water drainage at this location. Following a review of the submitted documents, the details are in accordance with NPPF and Policy 38 in Horsham District Planning Framework. We have no objection subject to conditions being attached to any consent if this application is approved, and the Applicant is in agreement with pre-commencement conditions. We suggest the following wording. If the following conditions are not included, the development would be contrary to NPPF and Policy 38 in Horsham District Planning Framework and we would ***object*** *until such time that the details below are submitted for review.*

'Condition 1
Prior to the commencement of development, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms and a construction method statement shall be submitted and agreed in writing by the Local Planning Authority. The scheme shall then be constructed as per the agreed drawings and Flood Risk Assessment by Water Design Engineers, 5th July 2024, revision 00 and remain in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority. No alteration to the agreed drainage scheme shall occur without prior written approval from the Local Planning Authority.

Reason: *To ensure that the development achieves a high standard of sustainability and to comply with NPPF and Policy 38 in Horsham District Planning Framework.*

'Condition 2
The development hereby approved shall not be first occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
I. a timetable for its implementation,
II. details of SuDS features and connecting drainage structures and maintenance requirement for each aspect
III. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: *To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and Policy 38 in Horsham District Planning Framework.*

'Condition 3
Upon completion of the surface water drainage system, including any SuDS features, and prior to the first occupation of the development; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 1. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any

corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed with the findings submitted to and approved in writing by the Local Planning Authority.

***Reason:** To ensure the flood risk is adequately addressed, not increased and users remain safe for the lifetime of the development in accordance with NPPF and Policy 38 in Horsham District Planning Framework.*

'Informative:
Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, which in this instance is West Sussex County Council. It is advised to discuss proposals for any works at an early stage of proposals.'

1st Comments dated 15th August 2024: Objection
This is a full planning application for the deposit of topsoil and chalk for biodiversity and agricultural improvement with improved access.

WSCC LLFA are concerned that the submitted Flood Risk Assessment has not provided adequate detail to demonstrate that the proposed ground raising will not result in loss of floodplain storage and may increase flood risk elsewhere.

WSCC LLFA maintain their objection to this planning application in the absence of an acceptable Flood Risk Assessment (FRA) & Drainage Strategy relating to:
'*The application is not in accordance with the NPPF, PPG Flood risk and coastal change or Policy 38 in Horsham District Planning Framework'.*

PUBLIC CONSULTATIONS

3.4 **Broadbridge Heath Parish Council**: Objection*

*** The committee report for the 4th June meeting refers to Broadbridge Heath Parish Council as being in support of the application. This was reported in error. Broadbridge Heath Parish Council had instead objected to the application (comments dated 22nd April 2024) as follows:**

'It is noted that although this application relates to land within the parish of Warnham the site is adjacent to the parish and built-up area of Broadbridge Heath and indeed the access referenced in the application is on the BBH parish boundary.

- *Any / all existing Enforcement Notices should be complied with in relation to the application site.*
- *There is reference to an acoustic fence which doesn't appear as part of the formal planning application. This proposed fence is not on the land owned by the applicant and the suggested size of the fence is not appropriate for this location (too large and impractical) - Any such proposal should be the subject of a separate planning application.*
- *There is no mention of the likely number of planned HGV movements required to complete the proposed works, or the intended duration of the earthworks.*
- *Given the location it would seem appropriate to require daily limits on the number of HGV's accessing and exiting the site. In addition, the maximum operating hours of the day should be specified and controlled.*
- *All material being brought onto the site should meet stringent and regular quality tests and conform to the agreed standards for the movement of such material. Does this activity require licensing?*
- *There are currently cars parked all along the original Old Guildford Rd (OGR) to the West of the OGR closure. This appears to form a potential restriction to HGVs accessing the site via the proposed access.*

- *In addition, there are numerous cars currently parked on the site just to the North of the proposed access. Where will these cars be moved to should this application be approved?*
- *The road surface on the OGR stub road to the West of the closure point is in places already in poor condition and would likely deteriorate further and more quickly with the suggested HGV movements. Who would be responsible for the repair and maintenance of this road?*
- *If application approved, fixed mechanical wheel washing must be provided for and used by HGVs prior to leaving the site vehicles that drive over rather than man with jet wash.*
- *Dirt mitigation provision e.g., road sleeper for cleaning adjacent roads used for access.*
- *Swept path analysis should be provided with current parking situation on access roads.*
- *Traffic analysis taking into account the new development at Lower Broadbridge Farm and the affect this application with have on access/egress.*
- *Similarly, dust must be managed in dry conditions.*
- *It is noted that there are various technical responses requiring the applicant to provide more information and technical reports and the Parish Council looks forward to these being provided in order to ensure all aspects of this application are fully explored and evaluated.*

Previous submitted response to DC/21/1235 (Oct 2021)

Our Planning Committee have reviewed the above application have noted the numerous objections to the application, including that from Warnham PC and owners of neighbouring properties in Broadbridge Heath.

There are also questions and concerns raised from some of the statutory consultees, some of which require further response from the applicant.

On review, the Planning Committee object to the application as submitted based on:

- *The likely effects of importing materials ("soil and chalk") onto the site by the continuing use of heavy goods vehicles on the local / village roads. This includes the witnessed state of the road surfaces both in terms of damage and the muddy state nearer to the site, particularly in wet weather.*
- *The noise and other environmental detrimental effects of the site workings to the nearby domestic and commercial properties to the south of the site.*
- *The unknown quality of the material being brought onto the site and its long-term effects on the land.*
- *The risks and complexities of the unknown and possibly unintended effects on the surrounding land, by the creation of the new lake (Lake 4) and the surrounding earthworks.*
- *Old Guildford Road is not a suitable access point for HGV's.*

Representations

3.6 There have been no additional neighbour representations made since the application was heard at the 4th June 2024 Planning Committee North.

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

4.1 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.

4.2 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.

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 This planning application, which at the time of submission was part-retrospective, was considered at the 4th June 2024 Planning Committee North meeting. The application was deferred from the meeting for the following reasons:

- To seek additional information on flood risk and to reconsult the Lead Local Flood Authority with the application to return to committee within 4 months.

6.2 The applicant has since submitted a new Flood Risk Assessment, Engineers letter, additional ecology reports and a draft Unilateral undertaking. These are considered in sequence below.

Flood Risk and Drainage
The New Flood Risk Assessment

6.3 The Applicant has submitted a new Flood Risk Assessment (FRA) by Water Design Engineers (WDE) - (Document Revision:00) dated 5th July 2024, to address Flood Risk and Drainage matters, in support of this application for the raising of ground levels by approximately 2m over the area known as Reservoir Field. The deposited materials consist of a mix of topsoil and two different types of chalk and would enable the creation of secure enclosures for livestock, whilst reducing surface water runoff and conserving and enhancing biodiversity. It is advised that the purpose of the current report is to '*assess the existing level of flood risk on or off the site, plus the change in risk posed by the new development, outlining any necessary mitigation measures required to ensure no net increase in flood risk either on or of the site*.'

6.4 The WSCC Lead Local Flood Authority (LLFA) was re-consulted on the 11th 2024 and their views were sought regarding this additional FRA information submitted by the Applicant. It is noted that the FRA report (05/07/2024) states that it contains '*a range of data from other sources*' which WDE consider has been '*a valuable source of information*' in the compilation of the detailed FRA, however, WDE caveat that whilst they believe the sources to be reliable, '*they cannot guarantee accuracy of data provided by others.'* The previously submitted supporting reports used by WDE (as set out in para 1.2 of the FRA), from which information has been relied on are advised as being the following:

- Planning Statement version 1 (Collegiate Legal Ltd)
- Preliminary Ecological Appraisal specific to Reservoir Field (Dr R M Case)
- Design Statement (Geo-Environmental Services Ltd).

6.5 With regard to designated sites, the FRA advises that the Slinfold Stream and Quarry SSSI lies approximately 2 km to the west of the site. The development has no hydrological connection to it. It also advises that the Upper Arun SSSI is hydrologically connected to the development, although it is approximately 16 km downstream (to the south-west).

6.6 The FRA addresses 'Reservoir Field' which covers approximately 5 ha and also the proposed temporary access track linking Reservoir Field with Old Guildford Road West. Section 3 of the FRA address the pre-existing topography of the site and advises that '*the topography of Reservoir Field slopes from an elevation of approx. 57.0 m (AOD) in the south, to approx. 45.0 m (AOD) in the north'*. '*The access track starts at approx. 33.0 m (AOD) at Guildford Road Gate in the south of the site, then heads north-east as it climbs to a peak of approx. 34.3 m (AOD) before a gentle downward slope adjacent to Lake Field. The track follows the new berm at the western end of Lake 4, which is 33.22 m (AOD). The track then heads north across Top Park, where it climbs out of the Broomswick Stream valley and then slopes down into the valley of the north stream channel at the northern end of Lake 1. The elevation at this point is approx. 33.2 m (AOD). From here, the track climbs west along the top of Bottom Park before turning north at the pond and climbing over 'the ridge' (approx. 60 m (AOD). After crossing the ridge, the track continues north as it slopes towards the south-east corner of Reservoir Field*.'

River flooding and Surface Flooding

6.7 Section 3.2 of the FRA identifies land that is at risk of river flooding and surface flooding. The Environment Agency Flood Risk Maps demonstrates that the application site is located within Flood Zone 1 (lowest river flood risk). The maps demonstrate that the area closest to the application site that is at risk of flooding is 'Trustlands Farm,' to the southeast, which is located within Flood Zone 3, and at the highest river flood risk from the River Arun and Broomswick Stream (a tributary). Surface water (fluvial flooding) is demonstrated by the darker blue area within the Environment Agency maps, this identifies where the area of highest risk on-site would occur. This is identified as being where the access track crosses the Broomswick Stream and Northern Stream valleys, along the ridge of Lake 4 (the 'berm') and the top of Lake 1. The 'berm' is generally constructed from compacted soil/ rock where surface water run-off is diverted to a controlled drainage outlet. It is advised that the off-site areas of high risk are adjacent to the new access gate in Old Guildford Road West, and to the north of Reservoir Field in an existing watercourse.

Existing Drainage

6.8 The FRA includes a soil scape map which identifies that the pre-developed site contains low permeability clay soil that naturally drains to the Brunswick Stream and the Northern Stream which flow westwards and southwards to the meeting point / junction with Lake 2. It is advised that there are no land drains or sewers present on the site and that the surface water pathway follows the topography of the site. The FRA identifies a small watercourse to the north of Reservoir Field which flows east to west and is a separate sub catchment of to the Broomswick and North Streams, which are separated by a ridge. It is stated that this waterway is dry for the most part of the year.

6.9 The FRA advises that there are natural springs occurring in the northwest corner and western boundary of Reservoir Filed, discharging slowly downhill towards the northern boundary of the field.

Historic Flooding

6.10 The FRA advises that the site is not at risk of flooding from reservoir or groundwater flooding or from any historic flooding, albeit the northwest boundary of the site is described as 'sometimes being swampy'.

The Proposed Development

6.11 The works (part-retrospective) are as set out in the committee report that was deferred at the 4th June 2024 Planning Committee North meeting. In essence these works consisted of the following:

- Formation of earthen walls (external face of raised area within Reservoir Field) approximately 2m in height, to the north, east and west of the field boundaries (vertical barriers) to prevent egress by White Park cattle grazing in Reservoir Field. Based on 18th Century Ha-ha.

- Formation of two ponds (shown blue on attachment 2) on the western boundary of Reservoir Field for drainage purposes from natural springs in the northwest corner and western border of Reservoir Field and the soil in Reservoir Field itself. Creation of new hedges to divide Reservoir Field into four parts (shown green on Attachment 2).

- The construction of a tract from the existing tract on the eastern boundary of Reservoir Field (shown on Attachment 2).

- Creation of an agricultural type of temporary track (comprising chalk without verges) from the culvert at the western section of Top Park to join the existing main track running from Broadbridge Heath Road via the Lime Avenue and past Field Place.

- Covering of the temporary track across Top Park with topsoil and grassing it with hard wearing grasses once bedded in.

- Preservation of the existing vehicular and pedestrian track leading from Old Guildford Road West to Top Park, over the existing culvert separating lakes 2 and 4.

- Planting of tree seedlings (including species such as English Oak; Turkey Oak; Oak hybrids; Evergreen Oak; English Elm; Lime; White Poplars; Maples; and other tree species taken from elsewhere on the Estate) to provide shelter and sustenance for the cattle in future years and to enhance tree screening to the boundaries of Reservoir Field.

- Planting and re-seeding of two thirds of Reservoir Field with permanent pasture mix with high clover content and 20% wildflowers, as well as to the external faces of the earthen walls with wildflowers and grasses. Installation of wheel washers and electric gates to Old Guildford Road West.

6.12 As advised in the initial committee report (para 1.3) the 3-4m high acoustic fence referred to which sits outside of the red line boundary does not form part of this application.

Flood Risk Vulnerability

6.13 In terms of Flood Risk Vulnerability the NPPF (Dec 2023 - Annex 3) the FRA states that used for amenity open space, nature conservation and biodiversity is categorised as being 'water-compatible development' land used for agriculture and forestry are classified as 'less vulnerable'. It is advised that both of these categories are appropriate within flood Zone 1.

Alterations to Site Drainage

6.14 Section 4.4 of the FRA addresses Surface Water Runoff at 'Reservoir Field' and also in regard to the 'New Permanent Trackway'.

Surface Water Run off – Reservoir Field

6.15 The FRA advises that discharges from the existing springs in the north-western corner and along the western boundary of the field would be caught by the two new ponds, and states that the discharges are not created by runoff as they are produced by groundwater. The FRA states that the ponds would provide some attenuation of the flow that contributes to surface water flows to the small watercourse to the north and that this provides 'betterment' in regard to the existing drainage. The FRA states that '*the raising of ground by 2m throughout the*

whole field will not alter surface water runoff pathways as the slope from south to north shall remain' and that *'there will be a slight betterment in runoff generation as the imported soil / chalk mix is more freely draining than the underlying clayey soil (i.e. runoff is expected to reduce).'*

6.16 It is advised that the new access track into the field consists of compacted rubble and chalk with a grass layer and that '*although the surface is of a permeable nature, it is advised that 'it would be relatively less permeable than the existing soil and therefore it needs to be positively drained'.* The FRA advises that the runoff from this area be restricted to greenfield rates and that the allowable discharge rates are restricted to '*1.17 l/s for all return periods up to and including the design events.'*

Surface Water Run off – new Permanent Trackway

6.17 In respect of surface water runoff from the new access track from Old Guildford Road West to the berm at the end of Lake 4 will comprise of compacted rubble and chalk, along with a thin covering of topsoil and grass. Although the surface is of a permeable nature, it is advised that '*it would be relatively less permeable than the existing soil and therefore it needs to be positively drained.'* It is advised that at its highest point at 34.30 m (AOD) which is approximately halfway along the track, that *'water would drain in two opposite directions either side of this watershed*.'

6.18 The FRA states in regard to surface water runoff at Reservoir field, that ditches or French drains should be created adjacent to the track to allow the runoff and drainage from the northern part of the track to Lake 4 and from the southern portion of the track to Lake 3 via a new connecting pipe. The FRA states that surface water runoff from the positively drained areas (new access track) will be restricted to greenfield rates therefore the allowable discharges for the northern and southern portions of the track shall be 0.17 l/s and 0.16 l/s, respectively, for all return periods up to and including the design event.

Mitigation – Reservoir Field

6.19 The FRA advises that the proposed works will not increase the risk of flooding either on or off-site, subject to imposition of mitigation measures. Proposed measures require the control of the flow at the northern end of the pond via an outlet which comprises a rectangular weir. It is advised that the weir would need to be of a size that this complies with the discharge rates as recommended within the FRA and provides adequate storage volume for attenuation of storm events. It is advised that a total volume of 91m^3 over and above the permanent pool volume of the pond is required. The FRA states that '*in an exceedance event, whereby a storm greater than the design event overwhelms the pond, the outlet weir will be drowned, and the overflow shall follow the same pathway as the normal discharge to the stream north of the tree screen. The flow will be dissipated through the tree screen before it reaches the stream channel.'*

Mitigation – New Permanent Trackway Drainage

6.20 The FRA states that new swales are required in conjunction with the French drains upstream of Lakes 4 and 3. It is advised that the outlet of each swale feature a v-notch weir to restrict the discharge rates as set out within the FRA for all events up to and including the 1 in 100 year event plus 45% allowance for climate change. The maximum required storage volume for each swale has been estimated as being 13.5 m^3 for the Northern track drain and 12.5m^3 for the Southern track drain. It is advised that '*in an exceedance event, whereby a storm greater than the design event overwhelms the swales, the outlet weirs will be drowned, and the overflow shall follow the same pathway as the normal discharge, directly into each lake. Surplus runoff from the northern and southern portions of the track will flow north and south, respectively (downslope in both cases). Flow deflectors (shallow speed bumps) across the*

tracks shall deflect excess runoff from the tracks to adjacent land, where it will follow topography downslope to each of Lakes 4 and 3'.

Details of the proposed maintenance schedules for the new drainage features are included within the FRA and include details identifying area that require '*regular maintenance, occasional maintenance or remedial maintenance and remedial actions'* as well as the required actions and the typical frequencies that actions are required.

Lead Local Flood Authority (LLFA) response

6.21 The WSCC LLFA initially advised on the 15th August 2024 that they maintain their objection to the proposals, as the FRA and Drainage Strategy is not considered to be in accordance with the NPPF, PPG Flood Risk and coastal change or Policy 38 of the Horsham District Planning Framework. The WSCC LLFA advised that they would review their decision if the following points were to be addressed by the Applicants:

1. Further details about the ponds and reinstated ditches are required. This should demonstrate the ground levels from the northern pond to show how exceedance flows will be directed to the existing ditch, the ground levels of the access track and ditches, the volume of storage in the southern pond and how this will connect to the reinstated ditches and what its surface water drainage function will be.

2. Further details on the extent of ground raising are required, to ensure there is no loss of floodplain storage and increased flood risk elsewhere through disruption of the natural surface water flow paths. This should be demonstrated on a plan, to show the ground levels across the proposed area. There must be no ground raising within the floodplain of the reinstated ditches.

3. The use of permeable material to construct the access track should be fully explored, to re-create natural drainage regimes where possible and reduce the need for new ditches and French drains.

6.22 The Applicants were invited to address these concerns and further information was submitted on the 20th August (Water Design Engineers - letter dated 19th August 2024). The WSCC LLFA were re-consulted on the 21st August 2024 and subsequently confirmed on the 6th September 2024 that they have no further objections to the proposed development subject to the imposition of conditions as set out above and repeated in the draft conditions list appended to this report.

Ecology

6.23 In addition to the original Preliminary Ecological Appraisal (February 2024) and the subsequent supporting Ecology reports submitted by Riverbank Management Services and Dr Rosalyn Case, which includes various walkthrough and photographic reports; further Ecology information has been provided by the Applicants (the most recent information being Dr Case's 6th Photographic Report) submitted on the 2nd September 2024, albeit that this was not requested by officers or Members of the Council and did not form part of the reasons for deferring the application. Notwithstanding this, the additional information submitted is as follows:

- June 2024 Walkthrough Report (Fourth Photographic Report) dated 1st July – Riverbank Management Services.
- July 2024 - Fifth Photographic Report – Dr Rosalyn Case.
- July 2024 - Fifth Photographic Report – Dr Rosalyn Case.

6.24 As previously reported to Committee in June 2024, the Council's Ecology Consultants advised that the ecological impacts of the development can be minimised such that the

proposals are considered to acceptable and it is considered that the development design has embedded biodiversity enhancements, which secure net gains for biodiversity, as outlined under Paragraph 180[d] of the National Planning Policy Framework 2023 [formerly Paragraph 174[d] of the National Planning Policy Framework 2021].

6.25 Natural England have been consulted and they have advised that based on the information submitted, they consider that the proposed development would not have any significant adverse impacts on statutory protected nature conservation sites or landscapes. These details remain as previously reported and the recently submitted information as set out above has no further bearing on the Ecology considerations which were considered satisfactory subject to the imposition of appropriate conditions in the event that the application were to be approved.

Draft Unilateral Undertaking

6.26 The Applicant has also submitted a Draft Unilateral Agreement which seeks to address the matters of concern in regard to the proposed access and deliveries to the site, and seeks to promote use of local traffic routes 'to require all such vehicles to approach the Estate by main roads only (e.g. the A29, A24, A264, A281 leading to the Old Guildford Road (West) for access to the Estate' as defined within the agreement (amongst other things). The Draft Unilateral Undertaking also sets out details of materials to be used in the construction of the existing access track; remediation measures in respect of making good the new and existing track after deliveries of materials have ceased; details of wheel washers on the estate; and details of flood risk mitigation measures. Officers have not requested that this Unilateral Undertaking be submitted.

6.27 Paragraph 122 of The Community Infrastructure Levy Regulations 2010 (replicated in Paragraph 57 of the NPPF) states that:
'(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
(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.'

6.28 Regulation 122 of the Community Infrastructure Levy Regulations 2010 Statutory Instrument 2010/948 makes it unlawful for any planning obligation to be taken into account as a reason to grant a planning permission if it does not meet the 3 tests set out in the Regulation.

6.29 The Council considers that whilst it could be argued in Point 2 of Schedule 2 of the Applicant's Draft Unilateral Undertaking, that the planning obligation is necessary to restrict vehicles from using Robin Hood Lane as a route to access the development site, this is not something that the Council would be able to enforce and as such officers advise that no weight can be attached this part of the Undertaking.

6.30 Section 6-9 of the Applicant's Draft Unilateral Undertaking relates to the new tracks proposed and sets out measures to reduce the visual impacts of this. These measures include the following:

- *To construct the New Track using recycled Haylage bags and imported chalk without verges and to make its appearance as rural and un-urban as practicable with the least visual impact on its surroundings.*
- *When deliveries of the Materials have ceased to lay topsoil on the surface of the New Track and to seed it with motion resilient grass.*
- *To avoid using the New Track for at least 60 days after such sowing or later until the grass has become established on the New Track.*
- *When such grass has become established to use only agricultural vehicles with low ground pressure tyres on the New Track to avoid damaging its grassy appearance.*

These matters are capable of being addressed if necessary by way of condition rather than obligation, with Paragraph 55 of the NPPF expressing a preference for the use of conditions over obligations where possible. Notwithstanding the fact that these matters can be managed by way of condition, Officers maintain their objections in principle to the new access tracks which connect the existing track to Reservoir Field. As such, the objection to the access track explained in detail in the original committee report is maintained by your Officers.

6.31 In respect of drainage and flooding matters as put forwards in Points 15-19 of Schedule 2 of the Applicant's Draft Unilateral Undertaking, remediation measures are proposed to address potential future flooding risks. However, some of these measures constitute land engineering works in their own right and would require separate planning permission, some can be managed by way of condition, whilst other obligations are not enforceable. In summary these include the following measures;

- Scrape clay surface on remainder of Reservoir Field and create earthen wall around the land.
- Lay imported topsoil and chalk onto the exposed clay within the enclosed area.
- Channel the natural spring water on the southern edge of the land into the ponds if necessary.
- Check daily the land and the ponds for signs of unusual water flows and excessive pressure on the ponds.
- Take any necessary and sufficient steps to prevent large quantities of water leaving the land in order to prevent any flooding downstream including: increasing the height and reinforcing the banks of the pond with deposited materials; Excavation and creation of pooling areas in order to slow the water towards the northern boundary of the land; Create channels to divert the natural spring water away from the land into other fields and the estate as necessary;
- To report identified signs of excessive pressure to the Council and to WSCC and to allow officers on to land to assess any flood risk.
- To undertake any remedial work, at the Applicants own expense, on the land as required and identified by Officers following any visit as considered reasonably appropriate to mitigate any flood risk arising in the future.

6.32 In view of the above, your Officers consider that the Applicants Draft Unilateral Undertaking provides no useful purpose beyond matters that are otherwise capable of being addressed by condition, and as such did not influence your Officers recommendation either previously or currently.

Conclusions and Planning Balance

6.33 The applicants have provided an updated Flood Risk Assessment (since supplemented by a Water Design Engineers letter dated 19th August 2024) since the deferral of the application from the Planning Committee North meeting on 4th June 2024. The WSCC Lead Local Flood Authority have advised that the submitted information is now considered to be satisfactory to be confident that the land works proposed by this application will not result in increased flood risk, in compliance with Policy 38 of the HDPF and requirements of the NPPF and PPG. Officers are in agreement and therefore recommend that the original reason for refusal (as reported in the Officer report to the 4th June 2024 included at Appendix 1) in regard to flood risk has now been suitably addressed.

6.34 The merits of the proposed temporary access track were discussed at the June 2024 Planning committee north meeting. Officers nevertheless maintain their recommendation that the Applicant has not satisfactorily demonstrated that the proposals are justified in terms of the landscape impacts arising from the proposed access track. It remains that the landscape harm that would result from the proposed access track means the proposals are

not considered to be in accordance with HDPF Policies 25, 31 and 33 of the HDPF. Officers recommend that the application be refused accordingly.

6.35 Notwithstanding the above, and in recognition of the Member's considerations at the 4th June committee meeting, in the event that the Committee wishes to consider an alternative motion to approve the proposed development, a list of recommended conditions is appended to this report for your consideration (Appendix 2).

7. RECOMMENDATIONS

7.1 That the application be refused for the following reason/s.

1. The proposed access track and the associated land level changes and raised edging detract from and erode the informal rural character, ambience, and landscape setting, resulting in an unduly formal and urbanised feature which would not protect, conserve, or enhance the landscape character. The proposed siting and means of construction would therefore have an adverse impact on visual amenity, contrary to Policies 25, 26, 31 and 33 of the HDPF.

Appendix 1: Committee report to 4th June Planning Committee North
Appendix 2: Recommended conditions in the event of a resolution to grant planning permission.