



TO: Planning Committee North

BY: Head of Development and Building Control

DATE: 1st November 2022

DEVELOPMENT: Erection of 80 dwellings with associated access, parking and landscaping at Land West of Worthing Road (Phase 5), Southwater

SITE: Berkeley Homes Development Site Worthing Road Southwater RH13 9BT

WARD: Southwater South and Shipley

APPLICATION: DC/19/2464

APPLICANT: **Name:** Berkeley Homes (Southern) Ltd **Address:** Berkeley House Bay Tree Avenue Leatherhead KT22 7UE

REASON FOR INCLUSION ON THE AGENDA: The application has returned to Committee due to the new material consideration of Water Neutrality.

RECOMMENDATION: To approve planning permission subject to appropriate conditions and the completion of a Section 106 Legal Agreement.

In the event that the legal agreement is not completed within three months of the decision of this Committee, the Director of Place be authorised to refuse permission on the grounds of failure to secure the obligations necessary to make the development acceptable in planning terms.

1. THE PURPOSE OF THIS REPORT

- 1.1 To re-consider the planning application in light of new material planning considerations.

2. PLANNING ASSESSMENT

- 2.1 This application was deferred at the 4th October Planning Committee North to seek further clarity on legal advice received by Horsham District Council on whether proposed water consumption can be offset on unbuilt homes. The officer advice on this matter is contained at paragraphs 2.32 to 2.36 below.
- 2.2 This application was first presented at Planning Committee North on 8th September 2020 where members resolved that the application be approved, subject to detailed list of planning conditions and completion of the necessary S106 legal agreement. The 8th September 2020 committee report is attached as Appendix A, which includes the description of the site and the full details of the application along with all consultee comments and an assessment of all material considerations undertaken at the time the application was considered.

- 2.3 Following the resolution to approve planning permission subject to the completion of a S106 legal agreement, a Position Statement from Natural England was received relating to the impacts of water abstraction on the protected habitat sites in the Arun Valley and the requirement for all developments to now demonstrate water neutrality. At the time of its receipt, the draft of the S106 agreement was in circulation but had not reached engrossment and planning permission had not therefore been granted. The Position Statement is a new material planning consideration relevant to the determination of this application.
- 2.4 Additionally since the resolution to approve, the Southwater Neighbourhood Plan (SNP) has passed referendum and now forms part of the adopted development plan for Horsham District (it was formally 'made' on 23 June 2021), and the National Planning Policy Framework (NPPF) was revised on 20 July 2021, replacing the previous NPPF (Feb 2019). The NPPF sets out the Government's planning policies for England and how these are expected to be applied.
- 2.5 An updated ecological walkover survey of the site has been undertaken (Derek Finnie Associates 13 July 2022). The habitats, and associated faunal communities, were largely unchanged from the 2019 surveys, with the exception of the northeast corner of the site, which has formed into a works compound to service Phases 3.2 and 4 since early 2022. As the site has not changed significantly since the 2019 surveys, the impact assessment and previously proposed mitigation and enhancement strategy remain valid. Hence, additional surveys are not required.
- 2.6 In addition to this, the site is subject of an updated reptile mitigation strategy (Derek Finnie Associates July 2022). This aims to exclude reptiles from the majority of the site, after a capture and translocation exercise, to allow for temporary soil storage as part of the earthworks strategy of Phases 3.2 and 4. The updated reptile mitigation strategy follows the same principles as previously proposed.
- 2.7 Since the Committee resolution to approve, the adjacent Chase Farm to the west of the site has implemented planning permission for change of use of part of a field and farmyard for glamping (DC/20/1256 refers). A home boarder business for dogs at Woodland House, immediately south of the site, has also expanded its 24/7 licence from 5 dogs to 10. Diversification and intensification of both enterprises has introduced new receptor sensitivities in proximity to the proposed development.
- 2.8 Finally, Berkeley Homes has confirmed that submission for building regulations for the Phase 5 development is unlikely before June 2023, at which time EV charging provision for new residential buildings will be covered by new Building Regulations legislation (Part S), separate to planning.

Southwater Neighbourhood Plan (SNP) and National Planning Policy Framework (NPPF) and additional representations

- 2.9 At the time the application was considered (8th September 2020), the Southwater Neighbourhood Plan (SNP) had passed through examination and its suite of policies were given significant weight to inform and assess the development proposal. Since then, the Southwater Neighbourhood Plan has been formally made (23 June 2021) and so now forms part of the Development Plan.
- 2.10 It is considered that the latest version of the NPPF does not result or require an amendment to the scheme or the technical assessments that support it or the evidence submitted. In cross-referencing the key principles of the scheme, there is only minor changes in wording and terminology, and paragraph references.

- 2.11 The development scheme is supported by a Design and Access Statement setting out the design principles and concepts for the proposed development, consistent with the principles set out in the National Design Guide, as required by paragraph 128 of the revised NPPF. In addition, at paragraph 131 the NPPF recognises the important contribution that trees make to the character and quality of urban environments and seeks to ensure existing trees are retained wherever possible. These principles already inform the development proposal which secures the tree planting provisions of the SNP Policy 18 *A Treed Landscape*, requiring the applicants and local planning authority to work to ensure the right trees are planted in the right places. The scheme has been informed by robust ecological assessment and the objective to enhance biodiversity and is consistent and reflects the policies and principles set out in the latest version of the NPPF.
- 2.12 In summary, the changed status of the SNP and 2021 revisions to the NPPF do not raise any new matters that would require additional information to be submitted, or that would alter the officer recommendation to the 8th September 2020 Planning Committee to approve the development. Two additional letters of objection from local residents have also been received since publication of the 4th October committee agenda. The concerns raised in these, which include water neutrality, infrastructure provision, and landscape impact, are noted and were previously addressed in the 2020 committee report or addressed in the paragraphs below.

- *Facilitating Appropriate Development (FAD)*

- 2.13 Subsequent to the 4th October 2022 committee meeting the Council has endorsed the Facilitating Appropriate Development (FAD) for use as a non-statutory Planning Guidance document. This document is to aid in the determination of planning applications in advance of the adoption of the new Local Plan. The preceding paragraphs of this report and the Officer's committee report recommendation on 8th September 2020 sets out your Officer's position on the appropriate facilitation of this development, which accords with the FAD.

Environmental Protection and EV provision

- 2.14 Given the distance and arrangement of the buildings and nature of adjoining farming and home boarding activities, the Council's Environmental Health team do not consider that residential use at the application site would impose unreasonable constraints upon these adjacent operations. This is with particular regard to noise and odour from the adjoining operations, and the effect on the viability of both enterprises arising from the presence of permanent dwellings and possible complaints.
- 2.15 The Council's Environmental Health team are satisfied that, with consideration of landscaping opportunities, future occupiers of the site, including those of units 13-15 with first floor windows nearest the farm, would not experience unacceptable internal living environment and adequate outdoor amenity in gardens. There was no evidence put forward that a future change in owner or operator to the adjoining enterprises would necessarily result in disturbance. Your planning officer's view is that the new development is integrated effectively with existing businesses, and in consideration of protecting the active parts of the farm from the new development and vice versa, the applicant should not be required to provide mitigation as it has not been evidenced that operation of an existing business could have a significant adverse effect on new development in its vicinity.
- 2.16 In terms of EV provision, with the change in legislation, compliance with Building Regulations (BR) would deliver the equivalent EV provision to the new residential buildings as previously secured by planning condition (subject to BR submission being post June 2023). For this development scheme, EV provision, including for visitor parking on the estate, would remain secured as part of air quality mitigation via the legal agreement.

Ecology

Water Neutrality and the Arun Valley Sites

- 2.17 Horsham District is supplied with water by Southern Water from its Sussex North Water Resource Zone. This supply is sourced from abstraction points in the Arun Valley, which includes locations such as Amberley Wild Brooks Site of Special Scientific Interest (SSSI), Pulborough Brooks SSSI and Arun Valley Special Protection Area/Special Area of Conservation and Ramsar site.
- 2.18 On 14th September 2021, the Council received the Position Statement from Natural England. The Natural England position is that it cannot be concluded that the existing abstraction within the Sussex North Water Supply Zone is not having an impact on the Arun Valley sites. It advises that development within this zone must not add to this impact.
- 2.19 Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality. The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.
- 2.20 The Position Statement is a new material consideration, and if an application cannot demonstrate water neutrality is reasonably achievable, this will mean the development will not meet the requirements of section 63 of the Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations).
- 2.21 The Applicant has submitted a Water Neutrality Statement by Hodkinson Consultancy (Version 3 dated 09 September 2022). This sets out the strategy for achieving water neutrality. Through installation of onsite water reduction measures as well as offsetting measures, a water neutral development is proposed. The Statement has been considered as follows.
- *Existing baseline*
- 2.22 The site is currently an undeveloped agricultural field, not irrigated, and therefore the existing baseline water consumption on the site is nil.
- *Proposed Water Consumption, following Onsite Efficiencies*
- 2.23 Following onsite measures to secure a water consumption of 89.8 litres per person per day and average occupancy rates based on 2011 census data for Horsham District, the total water demand from the proposed development equates to 20,020 litres per person per day (l/p/d).
- 2.24 Onsite measures to minimise water use include installation of water-efficient fixtures and appliances, and rainwater butts. A key efficiency fixture is in the use of the toilet, a 4/2.6 litre cistern with dual flush. These measures will result in a water consumption of 89.8 l/p/d (total internal 84.8 l/p/d plus external use of 5 l/p/d) and secured as part of any planning consent.
- 2.25 20,020 l/p/d is the amount required to then be offset for the development to demonstrate Water Neutrality. The applicant's strategy is to offset this residual consumption on their existing consented but as yet unbuilt developments within the district.
- *Offsetting unbuilt homes at the developer's (Berkeley Homes) existing consented schemes*
- 2.26 It is proposed to completely offset the expected residual water use of 20,020 l/p/d on Berkeley Homes' current unbuilt, consented developments at Broadacres and Highwood

(Phase 4 of Broadacres and Phase 8-13 of the Highwood). Both development sites lie within the Sussex North Water Resource Zone and are currently required to comply with the optional Part G water consumption of 110 l/person/day. The proposal seeks to improve the water efficiency of 461 of the homes that remain to be built at these two development sites.

- 2.27 It is proposed that the offsetting will be carried out by installing water-efficient white goods and fittings (such as shower and tap flow regulators) within these homes. Following the installation of these efficiencies the houses and flats will have a water consumption of 89.8 l/p/d. The strategy to achieve an internal water consumption of 84.8 l/p/d (plus 5 l/p/d for external use) will be the same as that for the proposed development.
- 2.28 A detailed calculation on the water savings that will be made on these schemes and how the total savings providing the required offsetting is provided within the submitted Water Neutrality Statement, as are the locations of the schemes across which the offsetting will be carried out.
- 2.29 The total saving across these 461 homes would be 20,965 litres per day, greater than the target of 20,020 litres per day. This provides an excess headroom in the figures of 945 litre per day. The dwellinghouses will still have waterbutts installed even though they no longer form part of the water efficiency calculations. This will give greater headroom still and it will be made clear in a planning condition that water butts shall be installed on all new houses as the applicant intends. Given this, it is judged that the 945 litres per day headroom is acceptable as the Part G water calculator provides for robust average water consumption rates which across the large number of homes being considered means that any impact from high individual users will be evened out by low individual users.
- 2.30 A s106 legal agreement is being prepared that secures the delivery of the offsetting savings in advance of the delivery of the 80 homes within the application proposal. This includes a means for evidence of the installation of the efficiencies to be provided to the Council, and for the occupiers to retain the efficiencies at the same or greater efficiency.
- 2.31 These measures have been embedded within the development to be secured as part of any planning consent, and are considered sufficient to avoid adverse effects on the integrity of the interest features of the Arun Valley SPA, SAC & Ramsar sites. This is subject to completion of the legal agreement and adherence to amended wording of the condition to secure the water consumption of 89.8 l/p/d in the new development, and insertion of a new condition requiring compliance with the submitted Water Neutrality Strategy for the offsetting.

- *Counsel Legal Advice on offsetting on unbuilt homes*

- 2.32 This application had returned to Planning Committee North for member consideration on 4th October 2022. At that Committee, Members deferred the application for further clarity on legal advice received by Horsham District Council on whether proposed water consumption can be offset on unbuilt homes, the strategy being advanced by the applicants in this case.
- 2.33 As background, the Frequently Asked Questions produced by Natural England in December 2021 identified that: *'Offsetting on unbuilt homes on developer's existing approved development sites within the water supply zone are **not** likely to provide offsetting as they are not currently using water and therefore are not currently adding to the existing risk of adverse effect.'*
- 2.34 Officers were unconvinced this was a reasonable stance to take in all cases and subsequently sought legal Counsel advice on this matter, which was received in early February 2022. The Counsel advice is that there is an alternative way of looking at offsetting on unbuilt homes which comes down to the timing of when the water use will begin. The advice is that if the water use from the development proposal can be timed to begin after that within the new homes where the offsetting is to be provided, then there would be no net

increase in water consumption. The Counsel advice was that considering water consumption within homes benefitting from full planning permission but had yet to be built was possible, as these homes can be built without the need for any further consent from the Council. Their water consumption is in effect therefore 'baked in' even though not yet built or occupied.

- 2.35 This is a point that is also fundamental to the emerging local plan strategy. In agreement with Natural England, the emerging local plan strategy does not need to mitigate against the impact of unbuilt development which already has full planning permission, as this development can lawfully consume water at the rate permitted and can therefore be included in the 'before' baseline data. So whilst the offsetting homes in this case are not already using water, their effect on water abstraction in the Arun Valley is already known and cannot be prevented. There is also certainty that these homes will be built given the developer has been onsite building out the rest of the development sites for the last 6-8 years.
- 2.36 Therefore, provided any planning permission includes triggers to ensure the proposed homes are occupied only after the necessary water offsetting measures have been implemented, this will provide the certainty that the impact will be mitigated. In this case, the draft s106 Agreement includes such triggers to ensure tranches of the proposed housing can only be occupied once it has been demonstrated that the required amount of offsetting for that tranche has been delivered on the offsetting sites. If the offsetting homes are not built the s106 obligation will not be able to be satisfied, therefore the proposed development would not be able to proceed. This is fundamental to the officer recommendation that planning permission be granted.

Conclusion on Water Neutrality

- 2.37 Having prepared its HRA Appropriate Assessment, Horsham District Council concludes that, with mitigation, the project will not have an Adverse Effect on the Integrity of the Arun Valley SAC/ SPA /Ramsar site, either alone or in combination with other plan and projects.
- 2.38 Natural England have been consulted as required by s.63 of the Habitat Regulations. Natural England have raised No Objection, advising that they concur with the Council's Appropriate Assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission. Officers have proposed sufficiently robust planning conditions and obligations in the legal agreement to ensure the mitigation measures are fully implemented and are enforceable in perpetuity and therefore provide a sufficient degree of certainty to pass the Habitats Regulations. The Council, as the competent authority, can now therefore agree to the project in full compliance with s.63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Ecology matters separate to the Arun Valley Sites

- 2.39 The Council's consultant ecologist has reviewed the updated ecological material submitted by Derek Finnie, relating to the likely impacts on protected and Priority habitats and species, particularly bats and reptiles, and identification of proportionate mitigation. As previously, the Council's consultant ecologist is satisfied sufficient ecological information is available for determination and recommends approval subject to conditions.
- 2.40 For completeness, the Council has updated its HRA screening for The Mens and Ebernoe Common SAC, informed by this updated material. As previously, habitat connectively impacts for commuting and foraging Barbastelle bats (qualifying feature of both SACs) has been screened out, with no mitigation or further assessment required. Natural England in its consultation response has concurs with this conclusion.

- *Biodiversity and Green Infrastructure Planning Advice Note (PAN)*

- 2.41 Subsequent to the 4th October 2022 committee meeting the Council has endorsed a Biodiversity and Green Infrastructure Planning Advice Note (PAN) for use as a non-statutory Planning Guidance document. The purpose of this Planning Advice Note (PAN) is to provide interim guidance for applicants and decision makers on how Biodiversity and Green Infrastructure should be taken into account within development proposals. It therefore forms a new material consideration to take into account.
- 2.42 Aligned with the purposes of the PAN, the Council's consultant Ecologist has recommended that reasonable biodiversity enhancements be implemented to secure measurable net gains for biodiversity as outlined under the NPPF. The reasonable biodiversity enhancement measures should be outlined with a Biodiversity Enhancement Strategy secured by a condition of any consent for discharge prior to slab level. In terms of biodiversity net gain of 10% as set out in the Council's PAN, the enhancements proposed in this development proposal will suitably contribute towards this aim.

Conclusion

- 2.43 The new information submitted to address Water Neutrality has been considered, as has the impact of the adjacent implemented development and the updated ecology material with consideration of the Council's recently agreed PAN. Having taken account of these new material considerations, which also include the changed status of the Southwater Neighbourhood Plan and updates to the NPPF, your Officer's recommendation to approve planning permission remains as previous, but with new conditions to secure the Water Neutrality mitigation within the new homes, plus new obligations in the legal agreement to ensure the mitigation within the offsetting developments is delivered at the appropriate time.
- 2.44 Officers therefore recommend that this application be approved, subject to the below detailed list of planning conditions and the completion of the necessary s106 legal agreement.

3. RECOMMENDATIONS

- 3.1 To approve full planning permission, subject to the completion of the Section 106 Agreement and the following conditions:

Conditions:

- 1** Approved Plans
- 2** **Regulatory (Time) 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-Commencement Condition:** No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site 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.

The following aspects (b) – (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

- (b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
- (c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
- (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 where required.

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

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

4. Pre-Commencement Condition: The development hereby approved shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following relevant measures:

- An introduction consisting of a description of the construction programme, definitions and abbreviations and project description and location;
- Details of how residents will be advised of site management contact details and responsibilities
- Detailed site logistics arrangements, including location of site compounds, location for the loading and unloading of plant and materials, site offices (including height and scale), and storage of plant and materials (including any stripped topsoil)
- Details regarding parking or site operatives and visitors, deliveries, and storage;
- The method of access to and from the construction site
- The arrangements for public consultation and liaison prior to and during the demolition and construction works – newsletters, fliers etc.
- Details of any floodlighting, including location, height, type and direction of light sources, hours of operation and intensity of illumination
- Locations and details for the provision of wheel washing facilities and dust suppression facilities
- the anticipated number, frequency and types of vehicles used during construction, and the method of access and routing of vehicles during construction

The construction shall thereafter be carried out in accordance with the details and measures approved in the CEMP.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers and highway safety during construction and in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

5. Pre-commencement Condition: No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Method Statement for Protected and Priority species (reptiles and compensation of lost Ecological Mitigation Area) has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the following:

- purpose and objectives for the proposed works;
- detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- extent and location of proposed works shown on appropriate scale maps and plans;

- timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- persons responsible for implementing the works;
- initial aftercare and long-term maintenance (where relevant);
- disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: To conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended, s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998 and Policy 31 of the Horsham District Neighbourhood Plan and Policy SNP16 of the Southwater Neighbourhood Plan

- 6. Pre-Commencement Condition:** No development shall take place within the application site until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified and experienced archaeologist during construction work in accordance with written details which have been submitted to and approved, in writing, by the local planning authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then construction work shall cease until the developer has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the local planning authority. Works shall be carried out in accordance with the approved scheme.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded in accordance with Policy 34 of the Horsham District Planning Framework (2015) and Policy SNP19 of the Southwater Neighbourhood Plan.

- 7. Pre-Commencement Condition:** No development shall commence until precise details of the existing and proposed finished floor levels and external ground levels of the development in relation to nearby datum points adjoining the application site have been submitted to and approved by the Local Planning Authority in writing. The development shall be completed in accordance with the approved details.

Reason: As this matter is fundamental to control the development in detail in the interests of amenity and visual impact and in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policy SNP17 of the Southwater Neighbourhood Plan.

- 8. Pre-Commencement Condition:** No development shall commence until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: As this matter is fundamental to ensure that the development is properly drained and to comply with Policy 38 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

- 9. Pre-Commencement Condition:** Prior to the commencement of development details of all underground trenching requirements for services, including the positions of soakaways, service ducts, foul, grey and storm water systems and all other underground service facilities, and required ground excavations there for, shall be submitted to and approved, in writing, by the Local Planning Authority. These details shall coordinate with the landscape scheme pursuant to condition 1, and with existing trees on the site. All such underground services shall be installed in accordance with the approved details.

Reason: As the matter is fundamental to protect roots of important existing trees and hedgerows on the site and future trees identified in the approved landscaping strategy in accordance with Policies 25, 32, 33 & 34 of the Horsham District Planning Framework (2015) and draft Policies SNP16 and SNP18 of the Southwater Neighbourhood Plan.

- 10. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials and details used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

- 11. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until confirmation has been submitted, in writing, to the Local Planning Authority that all dwellinghouse buildings comply with Building Regulation M4(2).

Reason: As this matter is fundamental to in order to improve the sustainability of the development and to ensure homes are fit for all ages in accordance with Policy 37 of the Horsham District Planning Framework (2015) and Policy SNP9 – Home Standards.

- 12. Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- detailed designs to achieve stated objectives;
- locations of proposed enhancement and compensation measures by appropriate maps and plans;
- timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- persons responsible for implementing the enhancement measures;
- details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species/habitats and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham District Planning Framework and Policy SNP16 of the Southwater Neighbourhood Plan

- 13. Pre-occupation condition:** Notwithstanding the landscape design principles identified in the Design and Access Statement and planting plan drawings, no dwelling hereby approved shall be first occupied until details of a comprehensive landscape works strategy, including the following landscape works has been submitted to and approved in writing, by the Local Planning Authority:

- Planting and seeding plans and schedules specifying species, planting size, densities and plant numbers
- A plan showing where each tree pit is and root barriers to be proposed is required.
- Hard surfacing materials: A written specification (NBS compliant) including, layout, colour, size, texture, coursing, levels, markings to parking bays
- Walls, fencing and railings: location, type, heights and materials
- Minor artefacts and structures including location, size, colour and construction of viewing platform, signage, refuse units, seating and lighting columns and lanterns
- A written soft landscape specification (National Building Specification compliant) including topsoil stripping, storage and re-use on the site in accordance with recognised codes of best practice, ground preparation, cultivation and other operations associated with plant and grass establishment
- Details of the exact location, extent, type of equipment/features and surfacing proposed for the natural play areas including LEAP and LAP and their integration with the attenuation basin including existing and proposed levels and cross sections
- All boundary treatments

The approved scheme shall be implemented in full accordance with the approved details. Planting shall be carried out according to a timetable to be agreed in writing with the Local Planning Authority prior to occupation of any dwellinghouse. Any plants which within a period of 5 years die, are removed or become seriously damaged and diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory development sympathetic to the character of the surroundings, satisfactory open space provision for future occupants, and landscape buffers to protect and conserve the countryside character, including Shaws Lane, the setting of neighbouring heritage assets, and help achieve safe and secure development, in accordance with Policies 25, 32, 33 & 34 of the Horsham District Planning Framework and Policies SNP12, SNP16 and SNP18 of the Southwater Neighbourhood Plan

14. Pre-Occupation Condition: Prior to the first occupation (or use) of any part of the development hereby permitted a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development. The content of the LEMP shall include the following:

- An Ecological Design Strategy (EDS) addressing the compensation of the recently created ecological mitigation area to the proposed LAP
- Description and evaluation of features to be managed including the native planting palette to be used.
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions, maintenance schedules, and accompanying plan delineating areas of responsibility, including for all communal landscape areas
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organisation responsible for implementation of the plan.
- Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally

approved scheme. The approved plan will be implemented in accordance with the approved details. The landscape areas shall thereafter be managed and maintained in accordance with the approved details.

In addition, the LEMP must include compensation for the loss of the H3 Priority hedgerow sections used by foraging and commuting bats.

Reason: To ensure a satisfactory development and in the interests of visual amenity and nature conservation in accordance with Policies 31 and 33 of the Horsham District Planning Framework (2015) and Policies SNP16 and SNP18 of the Southwater Neighbourhood Plan, and to allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 15. Pre-Occupation Condition:** Prior to the first occupation (or use) of each phase of the development hereby permitted, a verification report demonstrating that the SuDS drainage system for that phase has been constructed in accordance with the approved design drawings shall be submitted to and approved by the Local Planning Authority. The development shall be maintained in accordance with the approved report.

Reason: To ensure a SuDS drainage system has been provided to an acceptable standard to the reduce risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance in accordance Policies 35 and 38 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

- 16. Pre-Occupation Condition:** Prior to first occupation (or use) of the development hereby permitted, a detailed exterior light scheme shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the Institute of Lighting Professional's Guidance notes for the reduction of obstructive light and in consultation with a suitably qualified ecological consultant with the scheme as shown in Appendix 1 - Proposed Lighting Layout (Ecological Assessment (Derek Finnie Associates, November 2019) to avoid disturbance to foraging/commuting bats.

The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and to safeguard the amenities of the site and surrounds in accordance with Policies 31, and 33 of the Horsham District Planning Framework (2015) and Policies SNP16 of the Southwater Neighbourhood Plan.

- 17. Pre-Occupation Condition:** Unless evidence is submitted to the Local Planning Authority confirming the approved development is the subject of a submission for Building Regulations after 15 June 2023 and therefore required to fully comply with Part S of the Building Regulations, no dwelling shall be first occupied until means for the charging of electric

vehicles by way of fast charging points have been installed in accordance with details submitted to and approved in writing by the Local Planning Authority.

As a minimum, the charge point specification shall be 7kW mode 3 with type 2 connector. The details shall have regard to the Council's latest Air Quality & Emissions Reduction Guidance document and include a plan of all charging points, their specification, means of allocation, and means for their long term maintenance. The means for charging electric vehicles shall be retained as such thereafter.

Reason: To mitigate the impact of the development on air quality within the District and to sustain compliance with and contribute towards EU limit values or national objectives for pollutants in accordance with Policies 24 & 41 of the Horsham District Planning Framework (2015) and Policy SNP15 of the Southwater Neighbourhood Plan.

- 18. Pre-Occupation Condition:** Prior to the first occupation of each dwelling, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of 30 megabytes per second through full fibre broadband connection shall be provided to the premises.

Reason: To ensure a sustainable development that meets the needs of future occupiers in accordance with Policy 37 of the Horsham District Planning Framework (2015) and Policy SNP22 of the Southwater Neighbourhood Plan.

- 19. Pre-Occupation Condition:** No dwelling shall be first occupied until all vehicular, cycle and pedestrian access from the site has been designed, laid out and constructed in accordance with the plans and details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and in accordance with policy 40 of the Horsham District Local Development Framework and Policies SNP13, SNP14 and SNP15 of the Southwater Neighbourhood Plan.

- 20. Pre-Occupation Condition:** No dwelling shall be first occupied until the car parking serving the development has been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. Once provided the spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use in the interests of road safety and in accordance with Policies 40 and 41 of the Horsham District Planning Framework and Policy SNP14 of the Southwater Neighbourhood Plan.

- 21. Pre-Occupation Condition:** No dwelling hereby approved shall be first occupied until details of facilities for the covered and secure storage of cycles have been approved in writing by the Local Planning Authority and the approved storage facilities made available for use within the site. Once brought into use the cycle storage areas shall be retained at all times for their designated purpose.

Reason: To ensure that adequate storage space is available for cycles to promote the use of sustainable modes of transport, in the interests of highway safety and the visual amenity of the scheme in accordance with Policies 32, 33, 40 & 41 of the Horsham District Planning Framework and Policy SNP13 of the Southwater Neighbourhood Plan.

- 22. Pre-Occupation Condition:** No dwelling hereby approved shall be first occupied (unless and until provision for the storage of refuse/recycling has been made available for use for that dwelling in accordance with details approved in writing by the Local Planning Authority. Once brought into use the refuse/recycling storage areas shall be retained for the storage of refuse/recycling containers only and not used for any other purpose.

Reason: To ensure that adequate storage space is available for refuse/recycling containers in the interests of highway safety and the visual amenity of the scheme in accordance with Policies 32, 33, 40 & 41 of the Horsham District Planning Framework and Policies SNP9, SNP10, and SNP16 of the Southwater Neighbourhood Plan.

- 23. Pre-Occupation Condition:** Prior to the first occupation of any part of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport and in accordance with Policy 40 of the Horsham District Planning Framework (2015) and Policies SNP4 and SNP13 of the Southwater Neighbourhood Plan.

- 24. Pre-Occupation Condition:** No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details to be submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in strict accordance with the approved detailed, and shall thereafter be maintained as such, unless otherwise agreed to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework and Policy SNP4 of the Southwater Neighbourhood Plan.

- 25. Pre-Occupation Condition:** The development hereby permitted shall be undertaken in full accordance with the water neutrality strategy (Water Neutrality Statement Berkeley Homes (Southern) Ltd Land West of Worthing Road, Southwater Phase 5 Final v.3 09.09.22 by Hodgkinson). No dwelling hereby permitted shall be first occupied until evidence has been submitted to and been approved in writing by the Local Planning Authority that the approved water neutrality strategy for that dwelling has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, and completion of the as built Part G water calculator or equivalent. The installed measures, including all water butt provision as detailed in the approved water neutrality strategy, shall be retained as such thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 179 and 180 of the National Planning Policy Framework (2021), its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

- 26. Regulatory Condition:** No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays.

Reason: To safeguard the amenities of adjacent occupiers in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

- 27. Regulatory Condition:** All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Update (Derek Finnie, July 2022), the Reptile Mitigation Strategy (Derek Finnie Associates, July 2022) and the Ecological Appraisal (Derek Finnie Associates, November 2019) as already submitted with

the planning application and agreed in principle with the local planning authority prior to determination.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECow) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance Protected and Priority species and allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and Policy 31 of the Horsham District Planning Framework and Policy SNP16 of the Southwater Neighbourhood Plan.

- 28. Regulatory Condition:** The existing public right of way across the site shall remain protected on its legal line for the duration of the development in accordance plans and details to be submitted to the Local Planning Authority for approval.

Reason: To safeguard the rights of the public and in accordance with policy 40 of the Horsham District Local Development Framework and Policy SNP13 of the Southwater Neighbourhood Plan.

- 29. Regulatory Condition:** All works shall be executed in full accordance with the approved:-
- BERK21376aia-ams ARBORICULTURAL IMPACT ASSESSMENT AND METHODSTATEMENT REV A-14.11.19 by ACD Environmental
 - BERK21376trA TREE REPORT (Tree Survey and Constraint Advice) REV A: 07.08.2019 by ACD ENVIRONMENTAL

Reason: To ensure the successful and satisfactory protection of important trees, shrubs and hedges on the site in accordance with Policies 30 and 33 of the Horsham District Planning Framework (2015) and Policies SNP16 and SNP18 of the Southwater Neighbourhood Plan.

- 30. Regulatory Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

- 31. Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or Orders amending or revoking and re-enacting the same, no gate, fence, wall or other means of enclosure shall be erected or constructed in front of the forward most part of any building hereby approved which fronts onto a highway without express planning consent from the Local Planning Authority first being obtained.

Reason: In order to safeguard the character and visual amenity of the locality and/or highway safety in accordance with Policy 33 of the Horsham District Local Development Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.

- 32. Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or Orders amending or revoking and re-enacting the same, no development falling within Class B of Part 1 of Schedule 2 of

the order shall be constructed on the dwellinghouses hereby permitted without express planning permission from the Local Planning Authority first being obtained.

Reason: In the interest of visual amenity and to protect the amenities of adjoining residential properties from loss of privacy in accordance with Policy 33 of the Horsham District Planning Framework (2015) and Policy SNP16 of the Southwater Neighbourhood Plan.