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## Appeal Decision

Hearing held on 2 August 2016

Site visit made on 2 August 2016

**by S D Harley BSc(Hons) MPhil MRTPI ARICS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 September 2016**

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**Appeal Ref: APP/Y9507/W/16/3148177**

**Courts Yard, Jobsons Lane, Windfall Wood Common, Haslemere, West Sussex GU27 3BX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Simpson and Mr McMichael against the decision of South Downs National Park Authority.
  - The application Ref SDNP/15/05454/FUL, dated 28 October 2015, was refused by notice dated 25 February 2016.
  - The development proposed is "Erection of 2 detached dwellings and garages following the cessation of the current use and demolition and removal of all existing buildings and hard standings".
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 2 detached dwellings and garages following the cessation of the current use and demolition and removal of all existing buildings and hard standings at Courts Yard, Jobsons Lane, Windfall Wood Common, Haslemere, West Sussex GU27 3BX in accordance with the terms of the application Ref SDNP/15/05454/FUL, dated 28 October 2015 subject to the conditions set out in the attached schedule.

### Preliminary Matter

2. The name of the appellant as stated on the planning application form is Mr Simpson McMichael. At the Hearing, however, it was confirmed that the applicants are Mr Simpson and Mr McMichael, who are joint owners of the site and partners in Apex Brickcutters. That is reflected in the header above.

### Main Issue

3. The main issue is whether the appeal scheme would be sustainable development having regard to:
  - the effect of the proposal on the supply of employment land; and
  - on the landscape and scenic beauty of the South Downs National Park (SDNP).

### Reasons

4. Defra's *English National Parks and The Broads: UK Government Vision and Circular 2010* (Circular 2010) sets out the Government's vision for National
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Parks generally. Saved Policies RE1 and BE11 of the Chichester District Local Plan, First Review, adopted 1999 (the CLP) seek to restrict development in rural areas and to ensure that development respects the local environment. Although the CLP predates the National Planning Policy Framework (the Framework) by some years, Policies RE1 and BE11 broadly reflect those principles of the Framework that seek sustainable development and to protect the intrinsic character and beauty of the countryside generally and National Parks in particular.

5. The more recent SDNP Partnership Management Plan 2014-2019 (the PMP) does not contain planning policies but does provide a framework for the emerging South Downs Local Plan Preferred Options September 2015 (SDLP) and as such is a material planning consideration. Together the PMP and SDLP reflect the National Parks purposes of conserving and enhancing the natural beauty of the SDNP and the duty of fostering the social and economic wellbeing of communities within it.

### **Employment land**

6. Courts Yard is about 0.5 ha in size and is currently in employment use. It is in a rural area. Access is via a largely single track poorly surfaced bridleway from Jobsons Lane, which itself is a relatively narrow winding rural road. The built footprint on the site extends to some 1173 square metres, comprising a number of buildings of varying size, design and construction. Although single storey, some of the buildings are comparable in height to a two storey dwelling. They are in poor repair, lack modern facilities and are laid out in a somewhat haphazard fashion around a muddy yard, which is also used for outside storage and operations.
7. The appeal site is an existing, as opposed to an allocated, employment site. Policy B8 of the CLP seeks to safeguard employment sites unless the Authority is satisfied that the proposal would not result in the loss of types and sizes of sites and accommodation of which there is limited availability. It also allows for the relocation of uses which create damage to the surrounding environment, or adversely affect the living conditions of nearby residents. These policies broadly accord with similar aims in the Framework.
8. Policy B6 of the CLP allows for redevelopment of rural sites with established uses provided there is no expansion and no change of use to residential. However, there is a tension between this Policy and paragraphs 17 and 22 of the Framework which are more flexible. The latter seek to make best use of previously developed land and to avoid long term protection of allocated employment sites where there is no prospect of the land being used for employment, having regard to market signals and local need for different land uses to support sustainable rural communities. Policy B6 is therefore out of date as it does not allow for balance in considering alternative uses for sites which are no longer suitable for employment uses. It is therefore necessary to consider whether the proposal comprises sustainable development having regard to employment land and the effect on the SDNP.
9. Policies SD27 and SD28 of the emerging SDLP support the rural economy and safeguard employment land subject to it being fit for purpose. In addition, "Supporting Economic Growth in West Sussex – an Economic Strategy for West Sussex" 2102 -2020 seeks to make best use of land to support a robust and

- sustainable economy and to develop brownfield sites to provide new business spaces, jobs and homes.
10. The proposals are not accompanied by the robust marketing exercise of at least a year sought by the Authority, which is a new requirement under Policy SD28 of the emerging SDLP. However, information about employment land supply and demand was submitted<sup>1</sup>. Key employment sectors for the SDNP are wood-related, tourism, food and beverage. Unemployment levels do not appear to be an issue in the SDNP. Indeed, I note that the 2015 Employment Land Review suggests, among other things, that the lack of a local labour force would be a likely barrier to companies moving onto remote rural sites.
  11. Although demand for commercial property appears steady in the South East as a whole, enquiries for small units have dropped. Rents for good quality stock are increasing and freehold demand is relatively strong. I also note that there appears to be a lack of stock over 1850 square metres particularly for logistic space.
  12. More locally, the submitted evidence indicates that: there is a lack of small offices with meeting rooms and “move-on space” for home businesses; small unit schemes may need to be supported by subsidy; there is a demand for warehousing close to the strategic road network and for larger buildings, but overall there is a good choice of available premises; demand for employment land, particularly for B2 uses, is likely fall and to be centred on the largest settlements; that the economic outlook remains uncertain; that it can be difficult to recruit staff, especially office staff; and that the core supply of employment land broadly meets demand.
  13. On the basis of the evidence of what I heard, it seems likely that there may well be some demand for low cost premises for general industrial or sui generis uses. In my experience, small enterprises will set up in all sorts of premises. The “Skills and Enterprise in Rural West Sussex” report September 2010 shows a need for employment land in rural areas and there is some indication that rural firms cite lack of suitable premises and limitations of present workspace as a leading constraint on growth. However, neither party had significant local up to date evidence of the extent of such demand although the Authority is aware of at least three enquiries from companies wishing to open second branches in the area in the last three months - I am told these have now found suitable premises.
  14. Courts Yard, due to its size and location some distance from a settlement of any size and from the strategic road network, is an unlikely location for meeting specific identified needs such as the need for larger units, warehousing, offices or displaced businesses in the event of the expansion of Gatwick airport. The Authority’s Estates Officer, in response to a consultation about the appeal proposal, concludes that the market is too weak for a rural site such as Courts Yard to be of interest for speculative development. There may be interest however, in uses where a high amount of open storage or hard standing is required, such as fencing construction, timber supplies, craft workshops and farm equipment repair.

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<sup>1</sup> Commercial Report by Gascoignes relating to Courts Yard; a Commercial Property Market Research Report by Propernomics; South East Industrial & Logistics Focus “Making Property Work” Q3 2016 by Stiles Harold Williams; summary of the SDNP Employment Land Review 2015

15. The appellant describes the site and buildings as tired and derelict and only in use by "the skin of its teeth". From what I saw at my site visit I would agree that Courts Yard, although providing relatively low cost premises for the businesses there, could not currently be described as a good quality employment site.
16. The site is currently occupied by Apex Brickcutters and four smaller single employee businesses - car repairs, builders' yard, carpentry and stone masons, mostly with one employee. I was told at the Hearing that the ten Apex Brickcutters employees together travel about 290 miles on their daily journeys to and from work. In providing employment for fourteen people, the site makes a valuable, albeit limited, contribution to employment in the wider area.
17. Some of the existing units are vacant. At the Hearing I was also informed that two of the businesses will leave the site by the end of the year. In addition, Apex Brickcutters are seeking expanded modernised premises. I note, in this regard, that a planning application for the redevelopment of Courts Yard, to provide replacement B1(c) Light Industrial<sup>2</sup>, B2 General Industrial and B8 Storage with ancillary office, parking, servicing and turning facilities with a built floor space marginally greater than the existing floor space, was refused by the Authority on 25 November 2014. The reasons for refusal reflect the Authority's concerns about intensification of use of the site, traffic movements and the effect on the character, appearance and tranquillity of the area.
18. The Authority says that, in principle, redevelopment for employment might be acceptable, for example for small units or for uses as described above. However, the commercial value arising is likely to be significantly outweighed by the costs of development. Moreover, although in principle the owners, as occupiers, took the view some years ago that there would be value in redeveloping to enable their own business to remain on the site, small units would be likely to be expensive to develop and manage without subsidy and any financial institution would be likely to regard such proposals with extreme caution. On balance it seems to me unlikely, on the basis of the available evidence, that there would be significant economically viable demand for Courts Yard in its current state, or for small units on the site.
19. Notwithstanding the lack of a robust marketing exercise, and taking into account that adoption of the SDLP is delayed, with the consequence that its policies therefore have limited weight, I consider there is sufficient evidence, as set out above, to indicate that the site has significant locational disadvantages, has no realistic prospect of redevelopment for employment uses and is likely to decline further as businesses leave. On that basis, I consider that the site is generally not suitable for safeguarding for employment uses in the context of market demand and planning policies. I conclude, therefore, that the loss of employment land at Courts Yard would have little if any effect on the overall supply of employment land and employment levels in the SDNP. More locally, whilst there would be a small impact in the loss of land for the types of activities that take place on the site now, the proposal could facilitate the modernisation of Apex Brickcutters, with consequent economic benefits.
20. On balance, I find no conflict with Priority Outcome 4.4 of Circular 2010; Policies B8 and RE1 of the CLP; Policy 55 of the PMP; Policies SD27 and SD28 of the emerging SDLP; those principles of the Framework that seek to make

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<sup>2</sup> The Town and Country Planning (Use Classes Order) 1987 as amended

best use of land and to avoid long term protection of unsuitable employment sites; or to the duty of fostering the social and economic wellbeing of communities within the SDNP.

### **Landscape and scenic beauty**

21. The site is within the North Chapel Basin part of the SDNP. The local character is woodland with open areas, commons, pastures and small settlements, with a scattering of houses. For the reasons set out above, Courts Yard in its present state cannot be considered as making a positive visual contribution to the character and beauty of the SDNP, or the local rural character of the area. Moreover, some of the activities are noisy and dusty and are sometimes carried out in the open which disturbs the tranquil character of the area and the living conditions of occupiers of nearby houses. Traffic movements associated with the site also disturb the area.
22. Some of the buildings and outside storage areas are visible from the bridleway through the entrance to the site. Parts of some of the buildings can also be glimpsed from the bridleway near to the western boundary of the site. In mitigation, the existing buildings are relatively low in height, with the site screened by mature landscaping and views of them are obscured by the trees and shrubs within the surrounding mature woodland, albeit to a lesser extent at times the trees are not in leaf. As such, the buildings have a relatively low impact in terms of long and short range views into the site. This would also be the case for the two proposed houses and garages, particularly as the amended plans show the house at Plot 1 repositioned further from the site boundary, with increased planting on the boundary.
23. The Authority is of the view that residential development would have a suburbanising effect in the rural landscape. However, provided the design of the proposed buildings would be of high quality and appropriate in the local area, this would be little different to the overall effect of other nearby houses. The proposed houses would be of substantial scale and the Authority considers the proposed designs lack subtlety. However, I saw a mix of house sizes and styles in the local area and, in my opinion, the proposed sizes and designs would be in keeping with the SDNP and the local area.
24. The proposed development would reduce the number and volume of buildings and hard standing areas. Furthermore, whilst the proposed dwellings would be a different use of the site, on balance the effect of the development would be to improve the appearance of this previously developed land by removing partially redundant and dilapidated buildings which are of limited architectural interest and contribute little towards the high quality of the landscape. Similarly, the proposal would improve the tranquillity of the SDNP by reducing traffic movements and removing noisy and dusty activities.
25. Having given great weight to conserving the landscape and scenic beauty within the SDNP, in accordance with Paragraph 115 of the Framework, I conclude that the proposed development would, overall, have a beneficial effect on the landscape and scenic beauty of the SDNP. There would be no conflict therefore, with Priority Outcome 4.3 of Circular 2010; Policies RE1 and BE11 of the CLP; Policy 1 of the PMP; Policies SD5, SD6, SD7, SD8 and SD9 of the emerging SDLP; those principles of the Framework which seek that the countryside, designated landscapes and National Parks in particular are

properly protected, or the duty of conserving and enhancing the natural beauty of the SDNP.

### **Planning Balance**

26. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development in paragraph 14. Paragraphs 7 and 8 of the Framework detail the three mutually dependent economic, social and environmental roles of sustainable development, which should be sought jointly and simultaneously through the planning system.

#### *Economic role*

27. The site falls within the definition of previously developed land and the Framework encourages the effective re-use of such land. At the present time the use of Courts Yard is relatively low key and inefficient.
28. As set out above, the current use of the site makes a small positive contribution to the wider economy. However, the appellant has demonstrated the high potential cost of upgrading the existing buildings to meet current business needs, the commercially unattractive state of the buildings and the locational disadvantages of the site itself. The main occupiers seek to expand and it appears unlikely this could occur satisfactorily at Courts Yard. A greater economic benefit is likely to accrue from relocation of the company to more modern premises elsewhere. Whilst some types of businesses, such as car repairs, may be disadvantaged by the loss of Courts Yard for this type of use, the environmental disadvantages arising from these types of activities mitigate against retention of the site for such uses. There would be some economic benefit during the construction period, although that would be a short term benefit.
29. Overall I conclude that the economic role of sustainable development would not be compromised by the proposal.

#### *Social role*

30. The Framework seeks to significantly boost the supply of housing and the emerging SDLP provides for 4,596 additional homes over the plan period, of which 1,840 would be affordable homes. The proposal would contribute two market houses. These would normally be located within existing built up areas, as envisaged by paragraph 55 of the Framework which seeks to avoid isolated homes in countryside except in certain circumstance. Priority Outcome 4.4 of Circular 2010, amongst other things, seeks to foster and maintain thriving rural communities and support the provision of affordable housing. Paragraph 78 of Circular 2010 recognises that National Parks are not suitable locations for unrestricted housing and the expectation is that new housing will be focussed on meeting affordable housing needs.
31. The market housing as proposed does not qualify as one of the exceptions allowing isolated homes in the countryside in paragraph 55. However the list is not exhaustive or closed. The proposal would not contribute to any shortfall in either rural workers dwellings or affordable housing and Policy B6 of the CLP resists the change from employment to residential uses. However, paragraph 7.39 of the emerging SDLP identifies that some 5% of housing need is for four bedroomed or larger houses.

32. The location is not one where market housing is encouraged and I conclude that the social role of sustainable development would only be met to the extent that the two dwellings proposed would help meet the wider housing needs within the district and widen the choice of high quality homes.

*Environmental role*

33. In terms of the environmental role, I am mindful of my findings of the beneficial effect of the proposal on the landscape and scenic beauty of the SDNP. The proposal would also make more efficient use of land and improve the appearance of the environment by removing partially redundant and dilapidated buildings which are of limited architectural interest and contribute little towards the high quality of the landscape. It would also improve the tranquillity of the environment and the living conditions of nearby residents by removing noisy and dusty activities.
34. The appeal site is remote from any village or town with any degree of service provision although there are a few houses nearby. Future occupiers would be likely to rely on the private vehicle for most day to day services and facilities even should they use the proposed home/offices for their place of employment. This would count against the proposal. However, this would be offset by the reduction in trips by existing employees to Courts Yard.
35. The pond near the entrance to Courts Yard would be unaffected by the current proposal. The Authority is satisfied with the effect on protected surveys and based on the available evidence I see no reason to disagree.
36. Redevelopment of the site would result in modern buildings with improved energy and carbon efficiency compared to the existing buildings. In this respect the proposed development would contribute towards protecting and enhancing the natural and built environment. On balance I find that the proposal would satisfy the environmental role of sustainable development.

*Planning balance conclusion*

37. There are some tensions between different planning policies which may have different aims. On the one hand there would be merit in retaining Courts Yard as an employment site and this would satisfy employment related policies as set out above. However, there is little evidence of demand for such a site other than for small scale businesses, such as those already there. These by nature, might have difficulty finding premises elsewhere as they are likely to have unacceptable environmental effects. On the other hand the location of the site is not one where policies support market housing.
38. I have found that overall the proposal would have significant environmental benefits. On balance I consider that these outweigh the relatively small economic loss of the site for employment uses and the preference for directing market housing to existing settlements. Accordingly, I conclude on balance that the proposed development overall would represent sustainable development as defined by the Framework by achieving the mutually interdependent economic, social and environmental roles of the planning system. I therefore conclude that the proposal would conform with the aims of the development plan and national planning policies taken as a whole.

### **Other Matters**

39. Third parties have referred to nearby land owned by the appellant that may be in unauthorised use. However, that land is not within the application site and uses there are a matter for the Authority.
40. Third parties have queried the accuracy of the submitted "Landscape and Visual Impact Assessment; Baseline Checklist" in respect of the proximity of trees, a pond near the entrance, views of the site and the description of the historic pattern of the locality. Notwithstanding any such inaccuracies, as set out above I am satisfied that these matters have been addressed.
41. Any covenants or rights of way issues are matters for the land owners involved and do not lead me to any different conclusion.

### **Conclusion**

42. For the reasons set out above and taking into account all relevant matters raised I find the appeal scheme would be sustainable development having regard to the effect of the proposal on the supply of employment land and the landscape and scenic beauty of the SDNP. I conclude therefore that the appeal should succeed.

### **Conditions**

43. The Authority has suggested a number of conditions. I have had regard to Paragraph 206 of the Framework and the Planning Practice Guidance (the Guidance) in terms of the use of planning conditions and where appropriate have revised the proposed wording.
44. Conditions requiring compliance with the approved plans, submission of details of materials, including samples, the clearance of all existing buildings and the removal of arising debris are necessary and reasonable in the interests of the landscape and scenic beauty of the SDNP. For similar reasons, conditions requiring the submission of full details of a hard and soft landscaping scheme, protection of existing trees and hedges and details of boundary treatments are necessary and reasonable. Exceptionally, given the sensitive location in the SDNP, it is necessary and reasonable to control boundary treatments and so the removal of permitted development rights for gates fences and walls is justified.
45. The control of external lighting is necessary and reasonable to limit the effects on protected species (bats) and the Dark Skies objectives of the SDNP. A condition regarding the submission of drainage details is necessary and reasonable in the interests of ensuring the site is satisfactorily drained. The development should be carried out in accordance with the approved plans and details.

*SDHarley*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

|                 |                        |
|-----------------|------------------------|
| Colin Kiely     | Kiely Planning Limited |
| Simon Ward      | Propernomics Limited   |
| James McMichael | Appellant              |

### FOR THE SOUTH DOWNS NATIONAL PARK AUTHORITY:

|                           |   |
|---------------------------|---|
| David Price BSc(Hons) BTP | Chichester District Council and South Downs |
| MRTPI                     | National Park Authority                     |
| Karen Neglia              | Chichester District Council                 |

## DOCUMENTS

- 1 Letter dated 24 September 2007 Secretary of State Direction saving Policies of the Chichester District Local Plan
- 2 Corrected Appendix 6 of the appellants Statement of Case with letter dated 9 December 2015 from the Clerk to the Lurgashall Parish Council
- 3 Plans showing land owned/controlled by the appellant edged blue
- 4 Table of travel to work distances for those currently employed at Courts Yard by Apex Brickcutters
- 5 South Downs National Park Employment Land Review (September 2015) summary by the appellant
- 6 South East Industrial & Logistics Focus "Making Property Work" Q3 2016

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 12-P823 100 Rev A, 12-P823 101, 12-P823 102, 12-P823 103 Rev A, 12-P823 104, 12-P823 105; 12-P823 106 LP; 12-P823 CP.
- 3) No development shall commence until details, and samples where appropriate, of the following materials to be used in the development have been submitted to and approved in writing by the local planning authority: Bricks, stone & any other wall facing materials; Brick bonds; Mortar mix and finish; Rain water goods (including their relationship with eaves and verges); Slates, tiles & any other roof coverings, including rooflights. Thereafter the development shall be undertaken in full accordance with the approved details unless otherwise agreed in writing by the local planning authority.
- 4) No development shall commence until a sample panel of new facing brickwork/ stonework/ tiling or other cladding at least one square metre in size has been constructed on site and agreed in writing by the local planning authority. The panel shall be constructed using the proposed facing materials (brick, stone etc), bonds, mortar and finish to joints. The approved sample panel shall be retained on site and available for inspection until the work has been completed. Thereafter, the development shall be carried out to match the standard of workmanship in the approved panel to the satisfaction of the local planning authority.
- 5) No development shall take place unless and until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. In addition, all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall include seeding with a Native British Wildflower Flora mix appropriate to the soil and climate of the site and shall make particular provision for the conservation and enhancement of biodiversity on the application site. The scheme shall be designed to achieve levels of shelter/windbreak, shade and drought resistance to accord with the expected climate changes during the design life of the development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 7) No development, including site works of any description, shall take place on the site and no equipment, machinery or materials for the purposes of development shall be brought onto the site, until all the existing trees or hedges to be retained on the site have been protected by a fence, details

of which have previously been submitted to and approved in writing by the local planning authority, erected around each tree or group of vegetation at a radius from the bole or boles of 5 metres or such distance as may be agreed in writing by the local planning authority. This fencing shall be maintained until all equipment, machinery, surplus materials and surplus soil have been removed from the site. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon without the prior written approval of the local planning authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25 mm or more shall be left un severed. All works to be completed in accordance with BS 5837:2012.

- 8) No external lighting shall be installed either on the building or anywhere within the site. This exclusion shall not prohibit the installation of sensor controlled security lighting which shall be designed and shielded to minimise light spillage beyond the site boundary.
- 9) All buildings currently on the site shall be demolished and the resultant debris removed and the site cleared prior to the commencement of any other material operation in connection with the development hereby approved.
- 10) No development shall take place unless and until details of screen walls and/or fences have been submitted to and approved by the local planning authority and no dwellings shall be occupied until such screen walls and/or fences associated with them have been erected. Once erected, they should be retained whilst residential use continues unless otherwise agreed in writing by the local planning authority. Notwithstanding the provisions of the Town and Country Planning (General Development) Order 2015, no other development within Part 2, Class A (gates, fences, walls, etc) shall be carried out without a grant of planning permission on that behalf.
- 11) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with full details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the existing and proposed levels of the site, design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by

any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.