



# Public Document Pack

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5 February 2024

## PLANNING COMMITTEE

A meeting of the Planning Committee will be held in **Council Chamber, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF** on **Wednesday 14 February 2024 at 2.00 pm** and you are requested to attend.

Members: Councillors Hamilton (Chair), Wallsgrove (Vice-Chair), Blanchard-Cooper, Bower, Kelly, Lury, McDougall, Northeast, Partridge, Patel and Woodman

**PLEASE NOTE:** Where a member of the public wishes to attend the meeting or has registered a request to take part in Public Speaking physically at the Planning Committee, they are to enter the Civic Centre via the front reception and then make their way up to the Council Chamber on the second floor and take a seat in the Public Gallery [the Blue Room].

For further information on the items to be discussed, please contact [Committees@arun.gov.uk](mailto:Committees@arun.gov.uk)

**PLEASE NOTE THAT THE ORDER OF THE AGENDA MAY BE ALTERED AT THE DISCRETION OF THE CHAIRMAN AND SUBJECT TO THE AGREEMENT OF THE MEMBERS OF THE COMMITTEE**

**PLEASE ALSO NOTE THAT PLANS OF THE APPLICATIONS DETAILED IN THE AGENDA ARE AVAILABLE FOR INSPECTION ON LINE AT [www.arun.gov.uk/planning](http://www.arun.gov.uk/planning)**

## AGENDA

### 1. **APOLOGIES FOR ABSENCE**

### 2. **DECLARATIONS OF INTEREST**

Members and Officers are reminded to make any declarations of pecuniary, personal and/or prejudicial interests that they may have in relation to items on this agenda and are reminded that they should re-declare their interest before consideration of the item or as soon as the interest becomes apparent.

Members and officer should make their declaration by stating :

- a) the application they have the interest in
- b) whether it is a pecuniary, personal and/or prejudicial
- c) the nature of the interest
- d) if it is a prejudicial or pecuniary interest, whether they will be exercising their right to speak to the application

### 3. **VOTING PROCEDURES**

Members and Officers are reminded that voting at this Committee will operate in accordance with the Committee Process as set out in the Council's adopted Planning Local Code of Conduct for Members and Officers at Part 8 of the Constitution. A copy of the Planning Local Code of Conduct can be obtained from Planning Services' Reception and is available for inspection in the Members' Room.

### 4. **MINUTES**

(Pages 1 - 8)

To approve as a correct record the Minutes of the meeting held on 17 January 2023.

### 5. **ITEMS NOT ON THE AGENDA WHICH THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES**

#### **DEFERRED ITEM**

### 6. **WA/111/23/PL - BROOKFIELD FARM, EASTERGATE LANE, WALBERTON**

(Pages 9 - 28)

### 7. **WA/67/23/PL - LAND AT WEST WALBERTON LANE, WALBERTON, ARUNDEL**

(Pages 29 - 64)

## **PLANNING APPLICATIONS**

8. **BN/134/23/RES - NUTHATCH WANDLEYS LANE, FONTWELL, PO20 3SE** (Pages 65 - 78)
9. **FP/274/21/OUT - BOGNOR REGIS GOLF CLUB, DOWNVIEW ROAD, FELPHAM, PO22 8JD** (Pages 79 - 102)
10. **M/16/22/PL - LAND SOUTH OF GREVATTS LANE / A259, CLIMPING** (Pages 103 - 122)
11. **M/112/23/S73 - 8 MANOR WAY, ELMER, MIDDLETON-ON-SEA, PO22 6LA** (Pages 123 - 130)
12. **WA/35/23/OUT - LAND EAST OF WANDLEYS LANE, FONTWELL** (Pages 131 - 150)
13. **Y/68/23/PL - LAND WEST OF DRIVE LANE, MAIN ROAD, YAPTON** (Pages 151 - 172)

## **PLANNING APPEALS**

14. **APPEALS LIST** (Pages 173 - 176)
15. **APPEALS PERFORMANCE & COST 2023** (Pages 177 - 212)
16. **PLANNING APPLICATION REPORT - R/230/23/HH** (Pages 213 - 220)

## **OFFICER REPORT UPDATES**

Will be circulated ahead of the meeting if there are any.

## **BACKGROUND PAPERS**

In the case of each report relating to a planning application, or related matter, the background papers are contained in the planning application file. Such files are available for inspection/discussion with officers by arrangement prior to the meeting.

Members and the public are reminded that the plans printed in the Agenda are purely for the purpose of locating the site and do not form part of the application submitted.

Contact Officers :

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Daniel Vick (Ext 37771) email [Daniel.Vick@arun.gov.uk](mailto:Daniel.Vick@arun.gov.uk)

David Easton (Ext 37698) email [david.easton@arun.gov.uk](mailto:david.easton@arun.gov.uk)

Note: Reports are attached for all Members of the Committee only and the press (excluding exempt items). Copies of reports can be obtained on request from the Committee Manager.

Note: Members are reminded that if they have any detailed questions would they please inform the Chairman and/or relevant Director in advance of the meeting.

Note: Filming, Photography and Recording at Council Meetings - The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link – [PART 8 - CP - Section 5 Filming Photographic Protocol](#)

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# Agenda Item 4

Subject to approval at the next Planning Committee meeting

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## PLANNING COMMITTEE

17 January 2024 at 2.00 pm

Present: Councillors Hamilton (Chair), Wallsgrove (Vice-Chair), Blanchard-Cooper, Bower, Kelly, Lury, McDougall, Northeast, Partridge, Patel and Woodman

### 521. DECLARATIONS OF INTEREST

Councillor Woodman declared a prejudicial interest in item 8 [LU/278/23/HH 19 DAVITTS DRIVE, LITTLEHAMPTON, BN17 6RU] as she was the applicant.

Councillor Blanchard-Cooper declared a prejudicial interest in item 8 [LU/278/23/HH 19 DAVITTS DRIVE, LITTLEHAMPTON, BN17 6RU] as he was a friend of the applicant.

### 522. MINUTES

The Minutes of the Planning Committee held on 13 December 2023 and 14 December 2023 were approved and signed by the Chair.

### 523. DECLARATIONS OF INTEREST

There were no urgent items for this meeting.

### 524. P/153/21/RES LAND SOUTH OF SUMMER LANE AND WEST OF PAGHAM ROAD, PAGHAM

*(This application was deferred by the Committee on 13 December 2023 [Minute 465] to secure clarification as to the impact of the height of the proposed dwellings and the impact this would have on the setting of St Thomas a Beckett Church.)*

No Public Speakers

APPROVAL OF RESERVED MATTERS (APPEARANCE, LAYOUT, LANDSCAPING AND SCALE) FOLLOWING OUTLINE PLANNING PERMISSION P/140/16/OUT FOR THE ERECTION OF 350 NO. DWELLINGS, TOGETHER WITH PUBLIC OPEN SPACE, PLAY SPACE, DRAINAGE, PARKING AND ASSOCIATED INFRASTRUCTURE, LANDSCAPE, ANCILLARY AND SITE PREPARATION WORKS, WITH ACCESS OFF PAGHAM ROAD. THIS SITE MAY AFFECT A PUBLIC RIGHT OF WAY.

The Principal Planning Officer presented the report. The report set out that there had been no changes to the application since the deferral. However, the applicant had

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provided further informative material. An update was provided that one further objection had been received that contained no additional material considerations to consider.

Members having considered the additional information provided to them concerning the dwelling ridge heights and viewpoints, were satisfied that the view pertaining to the impact on the setting of St Thomas a Becketts Church would be protected.

The recommendation was proposed by Councillor Partridge and seconded by Councillor Bower.

The Committee

RESOLVED

That the application be APPROVED CONDITIONALLY

525. P/139/22/RES CHURCH BARTON HOUSE, HORNS LANE, PAGHAM

*(This application was deferred by the Committee on 13 December 2023 [Minute 466] due to the deferral of application P/153/21/RES [Minute 465], as the proposed access for this application relied on a connection to the internal estate road provided on the adjacent application site.)*

6 Public Speakers

Councillor Peter Atkins, Pagham Parish Council  
Nigel Munday, Objector.  
Colin Hamilton, Objector  
Councillor David Huntley, Ward Member  
Chris Lyons, Agent

Approval of reserved matters following P/25/17/OUT for the provision of 65 dwellings, access roads, landscaping, open space and associated works. This application affects a Public Right of Way.

The Principal Planning Officer presented the report. An update was provided that one further objection had been received that had contained no additional material considerations to consider. She drew attention to a correction to page 17 of the update report and advised that the ridge heights specified of ‘...between 5.3m and 8.3m.’ should read ‘...between 4.3m and 8.4m’.

After the speakers had been heard the Principal Planning Officer was invited by the Chair to address any comments made by those who had spoken. Conditions were imposed on the outline to deal with any flooding concerns, with the council’s drainage engineers requiring surface water run off rates to be no more than the greenfield runoff rate. The drainage engineers would require details of further drainage solutions if the

runoff rates were unsatisfactory, in order to address capacity and run off issues. Whilst indicative details had been received concerning the provision of play areas, they were not part of the reserved matters and would be secured as part of the Section 106 agreement. The Greenspace Officer had no objection to the proposals for the play areas. Condition 16 (external lighting) would deal with on-site external lighting. The ecological assessment had addressed the presence of birds and reviewed by the council's ecologist who had no objections. A condition requesting details of the bird box provision would be secured at the discharge of condition stage with the number of bird boxes quoted was the minimum requirement. Condition 27 (and Condition 30 of P/153/21/RES), required more details to be submitted relating to mitigation land for the Brent Geese and was not part of members' consideration. The mitigation measures relating to the reserved matters involving reducing disturbance of the brent geese had gone through an Appropriate Assessment by the council and agreed with Natural England. Referring to the potential for bird nests, separate legislation was in place to protect birds and their nesting habitats.

Members raised the following points during the debate. Flood risk concerns were discussed and the importance of adequate drainage solutions being in place to prevent future flooding. The provision of bungalows was welcomed with clarification sought regarding their protection as bungalows. The importance of protection being in place for migrating brent geese to mitigate the effect of the development.

The Principal Planning Officer advised that with regards to the flood risk concerns raised, a surface water drainage scheme would be considered at a later stage, prior to commencement of the development. A planning condition existed on the outline planning permission and would require the applicant to submit a technical drainage scheme and calculations for approval by the drainage engineers. If changes were required that impacted the approved layout, then the reserved matters application would be required to be altered and a new application would be needed to be made. Turning to the bungalows, it was confirmed they would be one storey high and not chalet bungalows. As regards to their protection, there would not be any permitted development rights allowing an upwards extension. The protection for migrating brent geese would be secured as part of the reserved matters application.

The Group Head of Planning reminded members that, as a reserved matters application, the only matters for consideration on this application were access, layout, appearance, landscaping and scale. All other detailed matters, including drainage, had been considered at the outline application stage through the conditions attached to the outline planning permission, as set out in the report. Further details concerning drainage would be required to be submitted for approval at the discharge of condition stage. Until these details were received the drainage engineers had submitted a holding objection.

At the conclusion of the member discussion Councillor Bower proposed that in light of the concerns raised by members concerning drainage issues the discharge of conditions applications relating to drainage should be referred back to this Committee for approval. The proposal was seconded by Councillor Kelly.

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The Committee

RESOLVED

That the application be APPROVE CONDITIONALLY and the discharge of the drainage conditions be referred back to the Planning Committee for approval.

526. LU/278/23/HH 19 DAVITS DRIVE, LITTLEHAMPTON BN17 6RU

*(At the start of this item Councillors Woodman and Blanchard-Cooper redeclared their Prejudicial Interests in this item made at the beginning of the meeting and left the meeting during the discussion of this item.)*

No Public Speakers

The Interim Head of Development Management presented the report. The recommendation was then proposed by Councillor Bower and seconded by Councillor Patel.

The Committee

RESOLVED

That the application be APPROVED CONDITIONALLY.

527. WA/111/23/PL BROOKFIELD FARM, EASTERGATE LANE, WALBERTON BN18 0BA

*(Councillors Woodman and Blanchard-Cooper returned to the meeting at the beginning of this application.)*

The Interim Head of Development Management drew members attention to an update to the recommendation set out in the update report. He advised that following the receipt of Southern Water's initial consultation response, officers had sought further comments from them regarding existing sewerage capacity issues in the Eastergate area. Southern Water had now updated their consultation response. The Sewer Network Manager has raised concerns about the existing network problems and the impact additional dwellings would have, possibly causing surcharging. The Future Growth Planner has advised that modelling would take place to test whether the flows from the two additional dwellings could be accommodated. He advised that having considered Southern Water's response officers were now recommending a deferral of the application to allow for the modelling to be undertaken and for wider discussions to take place with Southern Water to discuss the discrepancy with the replies that the Council was receiving during the consultation stage and to get clarity on their position regarding new development within this catchment area.



The deferral was proposed by Councillors Bower and seconded by Councillor Lury.

The Committee

RESOLVED

That the application be DEFERRED until such time as this modelling information is available and further discussions have taken place with Southern Water.

A short adjournment was then taken by the Committee from 3.10pm to 3.17pm.

528. COMMITTEE REPORT RAMPION 2 JANUARY 2024

The Chair invited Alice Humphries, Senior Consultant from Icen Projects who provided members with a detailed presentation. An application for a Development Consent Order had been submitted by Rampion Extension Development Ltd for the Rampion 2 Offshore Wind Farm Scheme for up to 90 offshore wind turbine generators, which had been accepted by the Secretary of State. As part of the examination process, Arun District Council, as a 'host Local Authority' has been invited to submit a 'Local Impact Report' (LIR) by 20 February 2024, which was before the Committee today to consider.

Members raised a number of points during a detailed discussion on the proposals:

- The importance of the economy and concern that there had been very little study of the disadvantages and advantages regarding the economic impact wind farms had when positioned adjacent to the coastline.
- Comment was made that the economy had not been included in the assessment of impact at a local level.
- The detrimental effect on seaside towns, due to the proximity of the wind turbines to the Arun district's beaches, was a concern, as tourism would be displaced during the construction phase with tourists diverting to neighbouring areas instead.
- The impact of the cabling works on the quality of agricultural land and the need for this type of land to be reinstated to its original agricultural land classification grade.
- The issue of 'pay back' was discussed, it was of concern that there was little mention of mitigation or compensation, which it was suggested could be used towards a range of projects, such as the improvement of flood defenses at Climping.
- Treat as an asset with the right investment it may provide a positive economical uplift, providing both skilled and unskilled jobs.
- The idea of the wind farm becoming a tourist attraction was suggested by providing a visitor education centre, the 'Look and Sea Visitor Centre' was suggested as a location, and boat trips to the site.

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- Concern was raised about the negative noise impact, especially at nighttime during the construction stage, which would likely be worse than the issues experienced during Rampion 1, due to a larger generating capacity for Rampion 2 and its location being closer to the coastline.
- A question was asked whether Arun District Council would receive any money to reinvest in the District to offset any negative impacts? It was explained that the Council's representations and the Local Impact Report had highlighted the need for mitigation measures to be in place to offset negative impact. Where mitigation was not possible a mechanism to secure compensation in the form of a Community Benefits Package had been requested and wording to this effect had been requested in the draft Development Consent Order. As regards to which communities. Further details had been requested from the applicant, who were the decision maker, as to which of the communities in Arun would benefit from such a package.

The Group Head of Planning responded to question concerning the examination stage. As regards to member involvement he advised that if the Examiner appointed by the Planning Inspectorate wanted to hear the Council's views at the examination stage, then notice would be given to the Council. At that time the Planning Committee can consider who should be involved at that stage to provide the Council's views. It was noted that the Council was not able to secure any substantial benefits requested for Rampion 1 and therefore it was not expected that Rampion 2 would either. Progress updates would be reported to the Council's Planning Briefing Panel. Alice Humphries would be the Council's representative at the examination who then explained more about the examination process.

Responding to members comments regarding a visitor centre and boat trip excursions, these were already available to the public for Rampion 1, the Group Head of Planning advised it would be difficult to request the same for Arun, as it would be expected that the applicant would use the facilities already available to serve the scheme as a whole.

The recommendations were proposed by Councillor Wallsgrove and seconded by Councillor Lury.

The Group Head of Planning provided additional advice on the suitability of the amendments to the LIR requested by members during their discussion. In relation to comments made by members surrounding the provision of flood defences at Climping, it was not possible to request a continual pay back for any negative impacts caused to the community. Referring the comments made by members concerning the visual impact and employment impact, he advised members that the LIR already referred to these impacts.

The Committee requested that the LIR should be amended to take into account the following:

- Make reference to the potential for the provision of a Visitor Centre within the Arun District to encourage tourism to the area.
- Request that the onshore cable corridor do not disturb the road surface of the proposed Lyminster bypass.
- To further highlight the importance of the tourism economy in the Arun District, as members were concerned about the negative impact the proposal would have on the tourism industry, especially during the construction stage and possibly thereafter.
- Strengthen reference to the concerns raised by members regarding the impact of noise, particularly in relation to the negative impact of nighttime noise during the construction phase.

The Group Head of Planning advised members that officers would now formulate additional text to take into account the above amendments to the LIR requested by the Committee and would be re-circulated to the Committee for information before submission to the Secretary of State.

The Committee

RESOLVED to

- i. Provide comments on and agree the proposed Local Impact Report, set out in Appendix 1 to be submitted to the Planning Inspectorate.
- ii. Delegate authority to the Group Head of Planning to make appropriate amendments, to be re-circulated to the Committee for information before submission of the LIR.
- iii. To agree that written representations based on the contents of the Local Impact Report are submitted to the Planning Inspectorate in accordance with the timescales confirmed by the Planning Inspectorate.

#### 529. APPEALS LIST

Members noted the appeals list.

(The meeting concluded at 4.26 pm)

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## Report following a request for further information, negotiations or consultation

**REF NO:** WA/111/23/PL

**LOCATION:** Brookfield Farm  
Eastergate Lane  
Walberton

**PROPOSAL:** 2 No. detached 4 bedroom dwellings (resubmission following WA/101/22/PL). This application is a Departure from the Development Plan and in CIL Zone 3 and is CIL Liable as new dwellings.

This application was previously deferred at the Planning Committee on 17 January 2023, on the recommendation of officers, to allow for development-specific modelling to be undertaken by Southern Water's Future Growth Planning Team to test whether the flows from the two additional dwellings could be accommodated within the existing sewer network and for wider discussions to take place with Southern Water around known issues within the catchment area.

Southern Water has subsequently sent a further formal consultation response on this matter confirming that their investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development.

A formal consultation response has also now been received from the Council's own drainage engineers raising no objection subject to recommended conditions and informatives. These conditions and informatives were already included on the original recommendation, which remains unchanged and is that planning permission should be granted for the proposed development subject to the conditions and informatives as set out at the end of the agenda report.

### PLANNING APPLICATION REPORT

**REF NO:** WA/111/23/PL

**LOCATION:** Brookfield Farm  
Eastergate Lane  
Walberton  
BN18 0BA

**PROPOSAL:** 2 No. detached 4 bedroom dwellings (resubmission following WA/101/22/PL). This application is a Departure from the Development Plan and in CIL Zone 3 and is CIL Liable as new dwellings.

<b>SITE AND SURROUNDINGS</b>
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**DESCRIPTION OF APPLICATION**

This application seeks permission for the erection of two detached 4-bedroom dwellings, each with an integral double garage.

The dwellings are of the same design. They are traditionally styled and include barn-ends to both the north and south and

a hipped/cat-slide roof to the eastern elevation and a single storey barn-end out croft to the western elevation. Pitched roof dormers are proposed to the front and rear, and solar panels are also included to the western elevation.

The design will include bonnet tiles to hips, exposed rafter feet and be finished with brick at ground and cladding to the first floor. Fenestration openings are appropriately sized given the rural setting of the building.

The two dwellings would be set back from the road and served by a single, shared vehicular access. They would be provided with parking and turning areas, including one visitor car parking space.

SITE AREA	0.47 Hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 4 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	The site has trees and hedgerow to its western and southern boundaries, including a large Hornbeam adjacent to the proposed access to the site.
BOUNDARY TREATMENT	Trees/hedgerow.
SITE CHARACTERISTICS	Open agricultural grazing land.
CHARACTER OF LOCALITY	Rural. The site is surrounded by sporadic development to the west and east, including residential, with open agricultural grazing land to the north. There are various business of a rural nature to the immediate south of the site, including garden nurseries.

<b>RELEVANT SITE HISTORY</b>
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WA/101/22/PL	2 x detached 4 bedroom dwellings	Refused 24-02-23
WA/73/22/PL	4 No 3 bedroom dwellings. This application is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.	Withdrawn 14-09-22

This is a revised application following the withdrawal of application WA/73/22/PL and the refusal of a subsequent application WA/101/22/PL, which was dismissed on appeal on the basis that the scheme would result in the loss of Best and Most Valuable Agricultural Land (BMVAL).

The Planning Inspector made the following conclusions in their summing up of the proposed development:

"The proposal would provide 2 dwellings reasonably quickly, due to its small scale. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirements of an area. It would therefore contribute to the Council's 5-year housing land supply and along with the associated economic, social, and environmental benefits, would attract moderate weighting based on the size of the Council's housing land supply deficit and the number of houses proposed.

I have found the proposal acceptable in relation to its impact on the character and appearance of the area, and the Council have not found harm relating to living conditions, design, accommodation standards, parking, highway safety, trees, biodiversity, and energy efficiency, amongst other things. However, any absence of harm is neutral in the planning balance.

Nevertheless, the proposal would constitute the loss of BMVAL, and because this loss would be permanent and irreversible, I give this significant weight. Therefore, I find in these circumstances, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan."

This application represents a resubmission of application WA/101/22/PL with new evidence submitted to address the Inspector's main concerns regarding the loss of Best and Most Valuable Agricultural Land (BMVAL), which the applicant disputes. Consideration of the new evidence is discussed in the body of the report below.

## REPRESENTATIONS

Walberton Parish Council - Objection.

- Site is outside the Built-up Area Boundary (BUAB).
- Greenfield site consisting of grade 3 agricultural land.
- Increasing trend to infill land along Eastergate Lane, development is merging with neighbouring Parishes.
- Biodiversity corridor, impact on chalk stream not identified.
- Increased risk of flooding/ ground water monitoring lacking.
- Not a sustainable location, without footpath or cycle routes.

5 letters of support from neighbours.

- 2 well presented homes in the village.
- Appropriately sized and situated amongst neighbouring homes. A positive addition to this rural setting.
- Other similar gap developments have been approved along the lane.

1 letter of objection from neighbour.

- This application is a harmful incursion into the rural gap between settlements.

## COMMENTS ON REPRESENTATIONS RECEIVED:

Representations noted. Those relating to material planning matters are considered in the Conclusions section of this report.

## CONSULTATIONS

## CONSULTATION RESPONSES RECEIVED:

WSSC Highways - Advice with conditions suggested.

- Visibility is in accordance with Design Manual for Roads and Bridges guidelines for Stopping Sight Distances (SSD) in relation to recorded survey data 85th percentile speeds provided within the Transport Statement. As such, the Local Highway Authority (LHA) is satisfied with the demonstrated visibility, of which can be secured by condition.
- The LHA is satisfied that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse impacts on highway safety.
- Under Arun Parking Standards, the LHA would expect a development of this size and location to provide at least seven car parking spaces. Therefore, the LHA is satisfied with the proposed level of parking provision.
- Parking bays appear suitably sized.
- 4 cycle parking spaces are to be provided. These can be secured by condition.
- The site is situated approximately 1km west of Walberton Village, which provides some local amenities and services, such as a shop and bus links. However, this part of Eastergate Lane lacks a footway and is unlit, which may deter pedestrians. Cycling is available option for confident cyclists.
- The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

Environmental Health - No objection. Conditions including contamination, working hours and best practice suggested.

Ecology - No objection with conditions relating to new bat/bird habitat, lighting and enhancement suggested.

- The site is within the Singleton and Cocking SAC Tunnels SAC and is therefore within the 12.0 km wider conservation area.
- This has been considered and the impact is rated as negligible.
- The BNG assessment uses the small sites metric with an increase of over 10% in all 3 typologies.

Southern Water - various responses as set out below.

20/12/23 - Initial consultation reply. No objection with advice relating to connection to mains sewers.

16/01/24 - Holding objection from SW Sewer Network Manager, pending review by SW Developer Services Team, saying "I would strongly advise currently against any additional development of any size in this catchment area. We are still having to remove excess ground water from the sewer system and this at best guess is likely to continue until at least Spring. The area and drainage catchment is in my own opinion over burdened most of the year and any amount of rainfall even in the summer tips the systems over the edge. I am hoping that this application has been sent to our developer services team for review and discussion as per normal Developer processes, if so I will also pass comment when they approach myself for information and knowledge. If planning permission is granted by the relevant planning authority I would also advise that the developer/land/property owner make every attempt possible to protect these new and existing dwellings from sewer flooding. That as per the letter, all provisions are made to manage the rainwater/surface water from this development by means or SUDS or other system but should not be connected to the public foul sewer system.2

16/01/24 - "This is currently being reviewed by our technical team where I can see there is a task to undertake network modelling for the proposed foul flows of 0.02l/s from this development. Based on the results of the modelling we can advise further if this development causes detriment to our network in writing."



16/01/24 - Further formal letter received raising no objection, with comments only, stating: "Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer."

ADC Engineers - No objection subject to conditions and informatives.

**COMMENTS ON CONSULTATION RESPONSES:**

Appropriate conditions recommended by consultees have been included where relevant and necessary.

**POLICY CONTEXT**

Designation applicable to site:  
 Outside the Built-up Area Boundary.  
 Singleton and Cocking Tunnels SAC 1.2km buffer zone.  
 Lidsey Treatment Catchment area.

**DEVELOPMENT PLAN POLICIES**

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
ECCSP1	ECC SP1 Adapting to Climate Change
LANDM1	LAN DM1 Protection of landscape character
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
WDM3	W DM3 Sustainable Urban Drainage Systems

<u><a href="#">Walberton Neighbourhood Plan Policy 2017 HP1</a></u>	Spatial Plan of the Parish
Walberton Neighbourhood Plan Policy 2017 HP11	Housing Density
Walberton Neighbourhood Plan Policy 2017 HP13	Design Guidance
Walberton Neighbourhood Plan Policy 2017 VE3	Protection of Trees and Hedgerows
Walberton Neighbourhood Plan Policy 2017 VE7	Surface Water Management

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPDG	National Design Guide

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

#### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is acceptable in that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against Development Plan policies and the guidance of the National Planning Policy Framework when taken as a whole.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are other material considerations to be weighed in the balance with the Development Plan.

WA/101/22/PL was dismissed at appeal in September 2023 where the Inspector determined the key issues to be the effect of the proposed development on the availability of the best and most versatile agricultural land (BMVAL), and the character and appearance of the area.

Given the high-quality design being reflective of the local area and landscape they found that the proposal would not harm the character and appearance of the area. It would therefore comply with LP Policies D DM1, D SP1 and LAN DM1; Policy HP13 of the Walberton Neighbourhood Plan; the Arun District Design Guide and the NPPF.

When considering BMVAL, the Inspector upheld the reason for refusal insofar as (when considering the precautionary approach), they were unable to conclude that the proposal would protect the availability of the BMVAL or the provision of 2 new dwellings on the appeal site would appropriately outweigh the protection of that land. The proposal would therefore conflict with LP Policy SO DM1, and the Framework, as far as it requires that the economic and other benefits of BMVAL are taken into account.

No evidence was submitted by either party at the appeal as to the exact classification of the land, only that the land could be classified as Class 3 (which is split into 3a - Good Moderate, and 3b Moderate Moderate. This led the Inspector to take a precautionary approach because of the permanent loss of the land subject to the application's approval. This application introduces new evidence relating to the classification of agricultural land forming the site area, in all other respects the application is identical to the previous submission.

This very recent appeal decision is a material consideration to which significant weight should be afforded.

## CONCLUSIONS

### PRINCIPLE

The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Walberton Neighbourhood Development Plan 2, that was made in 2021 ("WNDP") and the West Sussex Waste and Minerals Plans.

Policy C SP1 of the Arun Local Plan states that in locations outside the Built-up Areas boundary, development will only be permitted for a defined list of countryside uses.

Policy HP1 of the Walberton NP relates to the Built-up Area Boundary (BUAB) and states proposals for development outside of the BUAB, that do not accord with the development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure.

The provisions of Policy HP1 and Policy C SP1 preclude residential development on the application site. The principle of development on the site is, thereby, contrary to the development plan.

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year Housing Land Supply Policy C SP1 of the ALP is out of date and the presumption in paragraph 11(d) (the so called "tilted balance") applies.

Paragraph 14 of the new NPPF (20 December 2023) relating to the status of neighbourhood plans is of relevance in this instance.

Paragraph 14 says that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply: a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.

The current made Walberton Neighbourhood Plan 2 is less than 5 years old and sites for the allocation of housing have been provided within the WNP. Accordingly, Paragraph 14 of the NPPF is a material consideration to which significant weight should be attached.

### AGRICULTURAL LAND

The site is indicated by "Agricultural Land Classification - Provisional (England)" data (as obtained through Natural England) to be grade 3 (Good to Moderate quality). However, the classification does not distinguish between grade 3a/3b. This mapping is based on data provided by the national Provisional Agricultural Land Classification Grading system (ALC). It assesses the potential for land to support different agricultural uses, such as growing crops for food but does not consider the land's current use and intensity of use.

At appeal, the Inspector noted that no evidence had been submitted to clarify the exact class of the land, noting that Natural England data did not clarify whether the appeal site would be classified as grade 3a, or the lower quality 3b. Taking the precautionary approach, in the absence of clarity on the specific grading, they concluded the land to be 3a (the worst case scenario) and gave the permanent loss of the land to agriculture significant weight in the planning balance.

In support of this resubmitted application, a detailed 'Agricultural Land Classification Report' has now been prepared that concludes that, owing to the site's stoniness and drought, this site cannot be classified any higher than class 3b land. This is short of the requirements of Policy SO DM1 of the ALP which requires development on class 3a land and higher (including classes 1 and 2), to be supported by a sustainability and options appraisal. Furthermore, it is argued that the loss of 0.47 hectares of grazing pasture, which is too small to be considered 'best and most versatile' land, will not affect the farming business' longer term viability. The Council has not evidence available to counter this.

ALP policy SO DM1 states unless land is allocated, then the use of graded agricultural land above level 3b for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. In this instance the new evidence submitted is considered satisfactory to demonstrate that the land does not fall to be considered under this policy and, as such, there is no requirement for the application to meet the specific policy test.

On the basis of the revised information now provided, that was not available at the time of the previous appeal, it is considered that a refusal reason relating to the loss of BMVAL could no longer be sustained.

#### VISUAL/DESIGN IMPACT

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Trees, Layout, Density and Scale. Policy D SP1 requires development to make an effective use of the land.

Policy LAN DM1 strives to respect the particular characteristics and natural features of the landscape.

Policy HP 13 of the Walberton Neighbourhood Plan requires that new development must contribute to local character by creating a sense of place appropriate to its location.

Para 135 of the NPPF requires development to be visually attractive as a result of good architecture, layout, be sympathetic to local character and history, including the surrounding built environment and landscape setting and maintain a strong sense of place.

Part Q of the Arun Design Guide (ADG) requires development to sensitively fit into its setting in order to respect the character of the District's countryside areas.

The site is located immediately to the east of a group of approx. 15 dwellings of typical sporadic ribbon development, situated back from the highway. Eastergate Lane is a rural narrow lane (without pavements) with grass verges lined by hedgerow. Immediately to the north of the site is open grassland, used for grazing, to the south are commercial nurseries. Heading from west to east the character of the lane alters from one of a more formal pattern of semi-rural development to that of a rural setting. From Eastergate Lane, looking north, views of the open, undeveloped nature of the land can be glimpsed through openings in the hedgerow. Equally there are points on West Walberton Lane where views towards the application site can be achieved. This character contributes to the attractive setting and open rural character of the local area. Despite the development having an impact in this regards, the properties cannot be considered as out of character, especially as the development is located in between other dwellings fronting the lane.

Furthermore, the existing hedgerow situated on the southern boundary of the site provides some screening, there will still be glimpses of the proposed dwellings available from the highway. The attached garages (the forward most part of the development) will be located approx. 27m away from the edge of the highway. It is noted that the nearest neighbours nos. 1 and 2 Nursery Cottages, which lie immediately to the application site's western boundary are situated nearer to the highways edge at

approx. 17m back. As such the dwellings will not harm the established pattern of development.

Part P of the AGD requires infill development to 'Respond positively to the character, appearance and layout of surrounding buildings' and requires new development to 'relate to the existing rhythm of buildings and voids.'. The scale and bulk of the proposed dwellings is not dissimilar to those properties to the immediate west. Nos. 1 and 2 Nursery Cottages are a pair of semi detached dwellings, their bulk and height matches the proposed dwellings. In terms of appearance the high-quality design responds well to the rural setting.

In the Inspector's report they concluded that the proposals would be of a style, size and form commensurate to the other properties along Eastergate Lane and would, therefore, appear visually in keeping with existing development. The set back position of the development and retained and enhanced green buffer would also maintain the green verdant rural setting of the development. The Inspector also commented that, despite the loss of the void between existing development, given the spacious nature of development it would integrate acceptably.

In terms of appearance and character the proposed dwellings would inevitably have some impact on the relatively open rural character of the area, however, their appearance, bulk, scale and layout are reflective of other nearby existing development. Any harm arising would not be significant enough to conflict with policy requirements. The development accords with policies D SP1, D DM1 and LAN DM1 of the Arun Local Plan, HP 13 of the WNP, Part Q and P of the Arun Design Guide, and relevant paragraphs of the NPPF.

#### RESIDENTIAL AMENITY

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. Part H of the Arun Design Guide sets out guidance on garden depths and interface distances between houses.

The two dwellings will sit centrally within their respective plots with an acceptable minimum of 14.5m to the western boundary and 13.5m to the eastern boundary of site, with rear gardens exceeding Part H of the ADG requirements (12m) and fronting a public road. As such no overbearing impacts will occur to neighbouring properties.

There are no side facing first floor windows proposed thereby preventing any overlooking from these elevations. All other openings face towards the front, overlooking public or shared areas, or face towards the private rear amenity space.

The proposal, thereby, accords with policies QE SP1 and D DM1 of the ALP.

#### QUALITY OF ACCOMMODATION

Policy D DM2 of the Arun Local Plan requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards provide the current guidance. A 4 bed-8 person dwelling should provide a minimum of 124sqm over two floors. The internal spaces for the proposed dwellings would significantly exceed the current standards. at approx. 280sqm. Therefore, the development accords with Policy D DM2 of the Arun Local Plan.

In exceeding the required space standards, the proposed dwellings accord with Policy D DM2 of the ALP.

#### TRAFFIC & ROAD SAFETY

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network;

contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

According to the requirement of Parking Standards (SPD January 2020), 2 parking spaces are required for 3 bed houses in Parking Behaviour Zone 1.

The plans indicate 4 parking spaces (two within the garage) per dwelling which would satisfy the requirement of ADC Parking Standards. 1 visitor space is also indicated, and although not necessary with a scheme of this size will be a useful resource given the nature of Eastergate Lane.

As a result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes. As EV charging points have not been indicated on plan, details of these can be secured by condition.

The Arun SPD requires cycle storage to cater for 2 cycles per dwelling. Ample space for the storage of bicycles can be provided within each garage.

WSCC Highways does not consider this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. Subject to conditions to secure vehicular & cycle parking and EV points, the proposal would accord with ALP policies T SP1, T DM1, the ADC Parking Standards SPD (2020) and the NPPF.

#### TREES

Policy ENV DM4 of the ALP and VE3 of the Walberton Neighbourhood Plan states that development will be permitted where it can be demonstrated that trees and hedgerows contributing to local amenity will not be damaged or destroyed and that development that damages or results in the loss of ancient trees/trees of arboricultural and amenity value or loss of hedgerows or significant ground cover and habitat will be resisted.

A 'Tree Protection and Retention Plan' and 'Tree Schedule' have been provided in support of the application. These detail that no trees are to be removed from site, and existing boundary trees shall be protected during works. Amended plans have also been received moving the access track from intersecting through the root protection areas of the trees found on the western boundary. This will allow existing tree coverage to be fully protected from the development and provide space for new tree/hedge planting to proceed in line with policies ENV DM4 of the ALP and VE3 of the WNDP.

#### BIODIVERSITY AND ECOLOGY

ALP policy ENV DM5 requires that development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site.

Policy ENV DM1 controls development within sites of biodiversity or geological importance. The site is inside the 12km kilometre buffer zone as shown in the Sussex Bat SAC Planning and Landscape scale Enhancement Protocol. ANP policy EH12 states proposals for the development of greenfield sites in the Parish must evaluate whether there is a potential for the loss of suitable foraging habitat and / or the severance of commuting flight lines, such as in the form of mature treelines, hedgerows, and watercourses.

Policy VE10 of the WNP seeks to ensure a biodiversity net gain is made and seeks to preserve features (hedgerow/trees etc) used by bats within the Singleton and Cocking Tunnels Special Area of Conservation (SAC).

The application is accompanied by an Ecological Assessment where the opportunities for biodiversity enhancement have been suggested and details of biodiversity net gain have been provided.

The council's Ecologist is satisfied that sufficient survey effort has been applied and appropriate mitigation measures have been recommended in relation to qualifying features of the SAC. In terms of bats there are no structures present on site suitable for roosting, linear features such as hedgerow is being retained. The site has a low potential for bats with the boundary having low/moderate potential. As is required by the Conservation of Habitats and Species Regulations 2017 (as amended), the council has prepared an Appropriate Assessment (AA) which concludes there would not be any adverse effects on the SAC due to provision of suitable avoidance and mitigation measures.

Therefore, subject to a condition securing mitigation measures set out in the Ecological Impact Assessment, the proposed development accords with ALP policy ENV DM5.

#### ENERGY AND CLIMATE CHANGE

ALP policy ECC SP2 requires that all new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

PV panels are proposed on the dwellings. These, along with other measures can be secured via planning conditions.

#### DRAINAGE

Policy W SP1 seeks to encourage water efficiency measures. Properties should demonstrate the most rigorous of efficiency measures equal to those required under Part G of the Building Regulations.

Policy W DM3 states that proposals should incorporate a range of Sustainable Urban Drainage Systems into proposals at an early stage in the design process. Proposal will be supported should they consider Surface Water Drainage Systems, which reduces the creation and flow of surface water drainage and reduces flood risk whilst increasing biodiversity.

The application is within the Lidsey Treatment Catchment, therefore surface water drainage design should be carefully considered. Infiltration must be fully investigated, sustainable urban drainage features have been included in the initial drainage design.

Arun District Council Drainage Engineers have raised no objection to the application subject to conditions controlling a surface water drainage scheme. Aspects to note, this application will require further ground water monitoring (winter) to be undertaken, a Land Drainage Consent will be required to divert the culvert, root barriers will be required between surface water drainage features and trees proposed, and further design refinement is required for connections to boundary watercourses. The Engineers stated the proposal to position a land drain at the north of the site to capture surface water runoff and discharge this to the watercourse was positively viewed given the historic drainage issues on Eastergate Lane. Subject to condition the proposal accords with policies W SP1 and W DM3 of the ALP.

#### SUMMARY

Paragraph 11d(ii) of the NPPF, requires that where policies relating to residential development are out of date (i.e. in this instance this applies to policy C SP1 of the ALP and HP1 of the WNP) then applications should be granted permission unless the impacts of doing so demonstrably outweigh the benefits, when assessed against the Framework as a whole. Para 14 states that the adverse impacts of allowing housing that conflicts with the WNP are likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan contains policies and allocations to meet its identified housing requirements.

The benefits of the scheme are that the dwellings would make a modest addition to the housing stock in the District and that there would be a slight economic benefit due to the jobs created, noting that the site could provide two new dwellings relatively quickly, this being a smaller site. The economic benefits arising during the construction of the development would be temporary and carry minimal weight. Overall, given the severe lack of a 5YHLS, the Inspector's conclusions in respect of the very recent appeal scheme are accepted, which is that the benefits arising from development would attract moderate weighting, based on the size of the Council's housing land supply deficit and the number of houses proposed.

There has been a material change in circumstances since the appeal decision, in that the government published a new National Planning Policy Framework in December 2023 in which the revised wording of paragraph 14 now strengthens the status of neighbourhood plans, where these allocate land for housing and were made less than 5 years ago. The WNP meets these tests and the provisions of paragraph 14 should be given an appropriate level of weight in determining this application and says that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

In the overall planning balance, officers have given due weight to the conflict with both the ALP and the WNP. However, in this particular instance the very recent appeal decision (October 2023) is also a material planning consideration to which significant weight should be applied. The appeal proposals were identical to the development the subject of this current planning application and the Inspector found the proposal acceptable in relation to its impact on the character and appearance of the area, and did not identify any harm relating to living conditions, design, accommodation standards, parking, highway safety, trees, biodiversity, and energy efficiency. The only reason the Inspector found for dismissing the previous appeal was on the assumption that the development would result in the loss of BMVAL (Class 3a), in conflict with ALP Policy SO DM1. Robust evidence has since been submitted with this application to satisfactorily demonstrate that the land in question should, in reality, be graded as Class 3b, which falls outside of the definition of Best and Most Versatile Agricultural Land. This previous reason for refusal falls away.

Taking all factors into account, and notwithstanding that the proposals do not fully comply with the provisions of the development plan it is concluded that there are material considerations of such weight - especially the Planning Inspector's conclusions in respect of an identical scheme for the redevelopment of this site - that would justify granting planning permission in this particular instance. The application is therefore recommended for approval subject to the following conditions and informatives.

#### **HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this



report.

## DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

## CIL DETAILS

This application is CIL Liabe therefore developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

## RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan
- Block Plan 2021/23/01 Rev G
- East and West Elevations 2021/23/13
- South Elevation and Ground Floor Plan 2021/23/11
- North Elevations and First Floor Plan 2021/23/12
- Street Scene 2021/23/10 Rev A
- Roof Plan 2021/23/14
- Tree Retention and Protection Plan GS057 V 4
- Landscape Proposal 2360-TFC-00-00-DR-L-1001 P04

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1.

- 3 The development shall be constructed with the following materials and finishes:

- Ground floor to be brickwork with flint panels.
- First floor and where indicated on elevations to be horizontal larch cladding.
- Roof to be clay tiles.
- Windows and doors to be painted timber/glazed.

Unless written agreement is obtained from the Local Planning Authority to vary this arrangement.

Reason: To enable the Local Planning Authority to control the development in detail by

endeavouring to achieve a building of visual quality in accordance with Arun Local Plan policy D DM1.

- 4 No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun District Local Plan policy QE DM1.

- 5 Prior to occupation of any of the approved dwellings, the applicant or developer shall provide the dwellings with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

- 6 No dwelling hereby permitted shall be first occupied until the car parking serving that particular dwelling has been constructed in accordance with the approved Site Layout/Block Plan 2021/23/01 Rev G. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with policy T SP1 of the Arun Local Plan.

- 7 No part of the development shall be first occupied until visibility splays of 2.4 metres by 95.6 metres to the west and 2.4 metres by 93.2 metres to the east have been provided at the proposed site vehicular access onto the application site in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in accordance with policies T SP1 of the Arun Local Plan.

- 8 Details of bat tubes, bricks or boxes shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No fewer than 2 bat tubes, bricks or boxes shall be provided, and the details shall include the exact location, specification, and design of the habitats. The bat tubes, bricks or boxes shall be installed with the development prior to the first occupation/use of the building/s to which they form part or the first use of the space in which they are contained.

The bat tubes, bricks or boxes shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition thereafter.

Reason: To ensure the development provides the maximum possible provision towards the creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan

Policies ENV DM1 and ENV DM5.

- 9 Details of integral nesting bricks shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No fewer than 2 Swift nesting bricks shall be provided, and the details shall include the exact location, specification, and design of the bricks. The bricks shall be installed within the development prior to the first occupation/use of the building/s to which they form part or the first use of the space in which they are contained. The number of boxes required is as follows:

- Small scale developments should include at least 1 multi-chamber boxes or bricks per dwelling,
- Medium scale developments should include at least 5 multi-chamber boxes or brick across the estate buildings,
- Major developments should incorporate at least 12 multi-chamber bricks or boxes across the estate buildings.

The nesting bricks shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 10 Prior to any development above damp-proof course (DPC) level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the landscape proposals, BNG metric and EIA, shall be submitted to and approved in writing by the Local Planning Authority.

The enhancement measures shall be implemented in accordance with the approved details prior to first occupation of any part of the development and all features shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats in accordance with Arun Local Plan policies: ENV SP1 and ENV DM5 and allow the Local Planning Authority to discharge its duties under the NPPF 2023 and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 11 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Design considerations must take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council, and are an overriding factor in terms of requirements. Winter groundwater monitoring to establish highest annual ground water levels and winter percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a

pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 12 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling, or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values and in accordance with current policies. No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. And to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010 can be fulfilled without additional impediment following the development completion. It is considered necessary for this to be a pre-commencement condition to protect existing watercourses prior to the construction commencing.

- 13 The approved development shall include energy efficiency measures that reflect the current standards applicable at the time of submission and decentralised, renewable or low carbon energy supply systems. Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling/the building and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure a reduction in the use of energy at the site in accordance with national planning policy and policy ECC SP2 of the Arun Local Plan.

- 14 No individual dwelling hereby approved shall be occupied until the optional requirement for restricted water consumption in Part G of the Building Regulations as demonstrated through The Water Efficiency Calculator for New Dwellings has been complied with for that dwelling.

Reason: To improve the sustainability of the dwellings in accordance with Arun Local Plan policies ECC SP1 and W DM1.

- 15 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 16 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a

result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 17 **INFORMATIVE:** Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The infiltration tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method. All design storms must include a climate change allowance, as per <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>, on stored volumes or rainfall intensity. Infiltration structures must cater for the critical 1 in 10 year storm event, (plus40%) between the invert of the entry pipe to the soakaway and the base of the structure. All surface water drainage designs must also have provision to ensure there is capacity in the system to contain the critical 1 in 100 year storm event (plus 45%).

Freeboard is to be provided between the base of the infiltration structure and the highest recorded groundwater level identified in that location. Ideally this should be 1 metre where possible, as stated in the CIRIA Suds Manual guidance. However, on the coastal plain in particular, where geology dictates and where shallow perched/tidally influenced water tables are often present, this is unlikely to be achievable irrespective of this, infiltration must still be fully considered. Therefore, to maximise this potential and avoid utilising other less favourable methods of surface water disposal, the bases of infiltration structures are permitted to be immediately above the peak recorded groundwater levels where it is deemed necessary.

In areas where an aquifer is to be protected (subject to guidance from the Environment Agency) then a minimum 1 metre freeboard must be provided. Suitable water treatment is required upstream to the point of discharge in all circumstances to minimise any groundwater pollution risk or detriment to the drainage network. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest groundwater table in support of the design. The applicant is advised to discuss the extend of ground water monitoring with the council's engineers.

Supplementary guidance notes regarding surface water drainage are located at <https://www.arun.gov.uk/drainage-planning-consultations> on Arun District Council's website. A surface water drainage checklist is available on Arun District Council's website, this should be submitted with a Discharge of Conditions Application. Reference should also be made to the 'West Sussex LLFA Policy for the Management of Surface Water'.

- 18 **INFORMATIVE:** Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), or its agent (Arun District Council, [land.drainage@arun.gov.uk](mailto:land.drainage@arun.gov.uk)), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

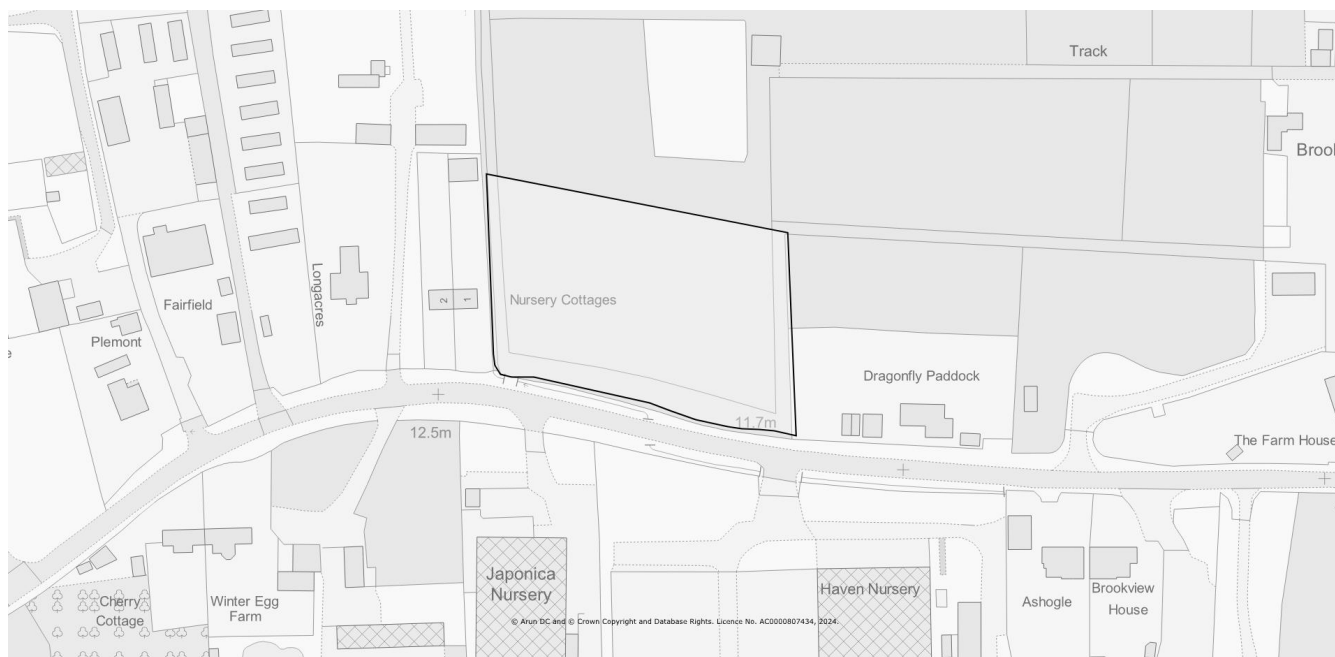
The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.

## BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on](https://www.arun.gov.uk/weekly-lists)

[this link.](#)

**WA/111/23/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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## Report following a request for further information, negotiations or consultation

<b>REF NO:</b>	WA/67/23/PL
<b>LOCATION:</b>	Land at West Walberton Lane Walberton Arundel
<b>PROPOSAL:</b>	Construction of 25 No dwellings together with associated access from Eastergate Lane, parking, public open space and landscaping (resubmission following WA/32/21/PL). This application may affect the setting of listed buildings, may affect the character and appearance of the Walberton Green Conservation Area, is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.

The application was deferred at Planning Committee on 14 December 2023, to await a formal consultation response from Southern Water.

### ADDITIONAL CONSULTATION RESPONSE:

Southern Water - No objection subject to condition.

### MATERIAL CHANGES TO NATIONAL PLANNING POLICY (NPPF)

The National Planning Policy Framework (NPPF) was revised by Government on 20 December 2023. The revised NPPF encompasses a number of policy changes but material to this application re changes to paragraph 14. Furthermore while the Council does not have a 5 year HLS, it is of some relevance that the Council has recently published the Annual Monitoring Report (AMR), and based on the Standard Housing Method, the supply is now calculated at 4.17 years, as opposed to the previously quoted figure of 2.36 years.

Paragraph 14 of the NPPF states that in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if two specific criteria apply. In this instance the WNDP meets criterion a, as the WNDP became part of the development plan less than 5 years ago. criterion b requires that the neighbourhood plan (in this case WNDP) contains policies and allocations to meet its identified housing requirement.

The Examiner's Report for the WNDP was published less than 3 years ago, and, in the absence of a more up to date indicative housing requirement for Walberton, it is entirely reasonable to accept the Inspector's figures of: an indicative housing requirement figure of at least 748 units; and a net additional contribution of 51 units from non-strategic allocations.

The authority has updated this calculation and, in fact, the additional WNDP allocations equate to a net increase of 56 dwellings. This means that the total of all completions, commitments, NDP allocations, strategic sites and other sites is  $697 + 56 = 753$  dwellings, against an indicative housing requirement of 748.

As such, while paragraph 11d does apply, and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14 it is considered that paragraph 14 also applies and that the adverse

impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

## REVISED PLANNING BALANCE

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 4.17-years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered. This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Paragraph 14 of the NPPF states that in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if two specific criteria apply. As set out in the above section of this report both criteria a and b are considered to be met.

As such, while paragraph 11d does apply, and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14 it is considered that paragraph 14 also applies and that the adverse impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. In respect of the paragraph 11 d part (ii) test, the report identifies that the proposal is in conflict with the council's policies in relation to development in the countryside and impacts on the character and appearance of the area.

The site is sustainable, and the scheme will result in benefits to the local and wider area such as new housing (including affordable housing), the creation/retention of construction jobs, spending by future residents on local shops/services, infrastructure improvements across the district and biodiversity enhancements.

The weight to be applied to the contribution of housing development to the HLS was discussed in the appeal for the previous application (APP/C3810/W/22/3291254), where the inspector gave this matter significant weight. In this case it would be appropriate to, similarly, allocate significant weight to the contribution to the housing shortfall. In that appeal, the Inspector afforded significant weight to the delivery of affordable housing and limited weight to the economic benefits of the scheme, limited weight to the environmental benefits of the scheme such as biodiversity enhancements, and neutral weight to the social benefits of the scheme. These weightings remain relevant to this application.

In the appeal, the Inspector gave moderate weight to the conflicts with policies with regard to location of development and limited weight to the impacts on the character and appearance of the area. Once again, it is appropriate to apply the same weighting here.

The wording of Paragraph 14 suggests that there would only be very limited circumstances which would result in the adverse impacts of conflict with the neighbourhood plan being outweighed.

Weighing all matters together, taking into consideration the tilted balance as required by paragraph 11d, the provisions of paragraph 14, and the conflict with the Walberton Neighbourhood Development Plan, the adverse impact of allowing development that conflicts with the neighbourhood plan is now considered to significantly and demonstrably outweigh the benefits and should be refused.

AMENDED RECOMMENDATION

It is recommended that the application be REFUSED for the following reasons (and informative):

1. By virtue of its location outside a defined built up area boundary the development is contrary to policy HP1 of the Walberton Neighbourhood Development Plan, the National Planning Policy Framework and Policies C SP1, SD SP1, SD SP1a and SD SP2 of the Arun Local Plan.
2. In the absence of a signed Section 106 legal agreement, the proposed development makes no contribution towards affordable housing or, education or affordable housing in conflict with policies AH SP2, ENV DM2, INF SP1, INF SP2, OSR DM1 of the Arun Local Plan and the National Planning Policy Framework.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## REPORT UPDATE

Application No: WA/67/23/PL

### Reason for the Update / Changes

Reason for Update/Changes:

Correction to text within report and additional recommended condition relating to matters of foul drainage.

Correction:

Under the report heading 'Human Rights' it states "...The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report."

The recommendation is to grant planning permission and this section, therefore, should read: "...The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report."

Additional Condition:

It has been noted that Southern Water were not specifically consulted in respect of this application. A consultation with them has now been made and any comments received in time for the Committee will be reported verbally. It is of relevance that Southern Water (SW) were consulted in relation to, and commented on, an earlier application for 30 dwellings on the same site under LPA reference WA/32/21/PL and, at that time SW identified that there may be local capacity issues that would require reinforcement of the sewerage network.

In anticipation of the situation being similar in respect of the current application, albeit for a fewer number of dwellings, the following additional Grampian-style condition is recommended to be attached to any approval.

"24. Development shall not commence, other than the enabling works (specified below), until full details of the proposed foul drainage system for the development have been submitted to and approved in writing by the Local Planning Authority. This shall include details of siting, design and subsequent management/maintenance. Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

The 'Enabling Works' referred to above encompass the following:

- (a) site investigations or surveys.
- (b) ecological preparation works.
- (c) tree protection measures.
- (c) the provision of security fencing, hoarding and sales signage.
- (d) the clearance of the site.
- (e) the provision of any temporary site point of access for construction traffic.

- (f) provision of temporary Welfare & Accommodation; and
- (g) temporary building services supply (electricity, water, data, etc).

Reason: To ensure that the proposed development has a satisfactory means of disposing of foul sewerage in accordance with policies W DM1 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the foul water drainage system prior to commencing any building works."

**Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.**

PLANNING APPLICATION REPORT

**REF NO:** WA/67/23/PL

**LOCATION:** Land at West Walberton Lane  
Walberton  
Arundel  
BN18 0QF

**PROPOSAL:** Construction of 25 No dwellings together with associated access from Eastergate Lane, parking, public open space and landscaping (resubmission following WA/32/21/PL). This application may affect the setting of listed buildings, may affect the character and appearance of the Walberton Green Conservation Area, is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.

<b>SITE AND SURROUNDINGS</b>
------------------------------

DESCRIPTION OF APPLICATION	The application seeks permission for residential development comprising 25 no. dwellings together with access from Eastergate Lane, parking, open space and landscaping. 30% affordable housing is proposed.
SITE AREA	1.5 ha (hectares)
RESIDENTIAL DEVELOPMENT DENSITY (NET)	27 dph (dwellings per hectare)
TREES	There are a number of trees along the site boundaries, particularly to the east, that are protected by the Conservation Area and Tree Preservation Orders (TPOs).
BOUNDARY TREATMENT	The western boundary of the site is defined by mature hedgerow and trees, beyond which are open paddocks divided into fields. There are a number of trees along the site boundaries, particularly to the east, that are protected by the Conservation Area and Tree Preservation Orders (TPOs).
SITE CHARACTERISTICS	The site is on the western edge of Walberton village. The site, which is irregular in shape, comprises land between West Walberton Lane to the north and Eastergate Road to the south.

The site is bounded by residential development to the north and south, with Walberton Green to the east where the northern parcel comprises of an open lawned area whilst the southern parcel is a pond surrounded by mature trees. The Green forms an important part of the Conservation Area in this location framed by residential development. The site's western boundary is defined by mature hedgerow and trees, beyond which are open fields split into paddocks. The site is pasture with enclosure due to trees and hedgerow boundaries.

The site edged in red lies in flood Zone 1, the adjoining land to the south west, edged in blue, is in flood zones 2 and 3.

The site adjoins Walberton Green and is less than 500m to the centre of the village to the east. The site benefits from links with local footpaths and bridleways, as well as a local cycle route that runs along West Walberton Lane, around Walberton Green and along Eastergate Lane, before connecting with the dedicated cycle route from Eastergate Lane, opposite the southern boundary of the site.

CHARACTER OF LOCALITY

The site is adjacent to the built up area boundary of Walberton in an open countryside setting, visually separate from the village with far ranging views across open countryside.

Walberton Green is to the east of the site where the closest parcel comprises a large area of open lawn, whilst the neighbouring parcel contains a pond which is surrounded with mature trees. The Green forms an important part of the Conservation Area and creates a semi rural character.

**RELEVANT SITE HISTORY**

WA/32/21/PL Construction of 30 No. dwellings together with associated Refused access, parking, public open space & landscaping. This 26-07-21 site may affect the setting of listed buildings, affects the character & appearance of the Walberton Green Conservation Area, is a Departure from the Development Plan & is in CIL Zone 3 & is CIL Liable as new dwellings.

**Appeal: Dismissed  
25-08-22**

**REPRESENTATIONS**

Walberton Parish Council objects to the proposal with their concerns summarised as points below:

- The site is not part of the 2020 Walberton Neighbourhood Development Plan.
- The site was submitted when a call for sites was made but was rejected by residents in 2016.
- The parish has exceeded its required allocation of 60 dwellings in its Plan.
- The site affects the setting of the conservation area.

- The site was listed in the HELAA as Not Developable.
- The development is on a green field outside the Walberton built up area boundary.
- The site does not provide sufficient Biodiversity Net Gain.
- Construction activity, lighting and general usage of the site will adversely impact the bat population.
- The site impacts a key Biodiversity corridor.
- The northwestern part of the site is within the SDNPA HRA buffer.
- Some parts of the site are in flood zones 2 and 3.
- The ADC SFRA map shows medium risk of ground water flooding.
- The scheme does not aim to reduce the overall level of flood risk.
- The development has watercourses passing through it.
- Runoff water from the site may pollute the pond.
- Results in a cumulative increased burden on the sewerage system.
- Should development be consented we would expect a S106 contribution to fund the dredging of the pond to provide increased capacity and to reduce the risk of flooding.
- There has been two collisions since 2021 at the junction of Eastergate Lane and Fontwell Avenue.
- Traffic counts made in September 2020 were lower than normal due to Covid 19 pandemic. This data is considerably out of date.
- Trip generation calculation for 25 dwellings seems a little low. Given the 2011 census shows that Walberton parish has almost double the average car ownership.
- This development increases the amount of traffic that will use the Fontwell roundabouts.
- There is minimal public transport in the immediate locality.
- Eastergate Lane has a 40 mph speed limit at the proposed access point with limited visibility both west and east. The Transport Assessment acknowledges that there is a risk of accidents at the access point because of this.
- West Sussex is short of school places with many schools being oversubscribed and overcrowded.
- There are already pressures on local healthcare facilities. Increasing these further with a development of this scale is not sustainable. Should consent be granted we would expect a S106 contribution to be requested from the developer to fund the extra ongoing staffing and facilities required.

73 letters of objection. Multiple objections submitted under one address count as one comment. The main points of concern raised include:

- Outside of the built up area boundary.
- This development is on a green field site.
- Earlier proposal for development has been rejected by Arun DC and on appeal. It was a site rejected to by residents in 2016 and thus does not appear in the Walberton NP.
- The site is not part of the Walberton Neighbourhood Plan.
- It is not in accordance with any of the countryside policies of the various Local Plans.
- These houses are not needed.
- This NP process is of little value if developers and planners override these plans.
- The 6 local villages in this area have seen a significant increase in new housing and Walberton already has under active construction more than 575 dwellings relative to the existing number of 875 dwellings.
- The parish has already exceeded the 60 dwellings required.
- The proposed site is in an area extremely liable to flooding.
- There is a danger of flooding in the area around the pond and this will cause further issues.
- Planning Inspectorate refused to permit development due to flooding concerns. These concerns have not in any way been alleviated.
- The sewage system is unable to cope with the current load much less any greater load.
- The ground water monitoring has been completed incorrectly and the risk not correctly identified.
- The EA have reaffirmed their objection given the risk of flooding in the area.
- Flooding is an increasing problem in the area, although it is unlikely to affect the houses built along the top of this site it will almost certainly increase the risk of flooding for housing on Eastergate Lane which

has flooded several times in recent years.

- Since the original application, the flooding situation has deteriorated.
- It is a shame that the applicants civil engineer chose not to consult with residents adjacent to the site over their experiences of flooding.
- Actually flooding indicates a one in eight year risk of flooding at the site.
- Lack of improvements to infrastructure to support development, i.e. school places, drainage, doctor surgery capacity, etc.
- This development increases the amount of traffic that will use the Fontwell roundabouts.
- West Sussex is already short of school places. A development of this scale will put more pressure on already overloaded services.
- Infrastructure cannot support any more new builds.
- West Walberton Lane is severely threatened by the National Highways A27 proposal and this application is therefore premature.
- The site suffers from very poor mobile phone connectivity. If this application is approved, the developers should be required to install a 5G mast to provide connectivity.
- Detract from the Conservation Area.
- Affects calm of village pond and green.
- Paragraph 5.47 of the Built Heritage Statement states that the trees and hedgerows on West Walberton Lane obstruct views into the site. This is highly misleading.
- The height of the houses will give intrusive views into the homes/gardens of buildings opposite.
- The proposed designs have few discernible design features. Their boxy appearance and garish red brick will clash with the houses opposite them in West Walberton Lane.
- The site is frequented by bats.
- The site impacts a key biodiversity corridor.
- Wild birds from the pond, mostly Mallard often nest in that field, requiring local residents to put up notices 'baby ducks crossing' or similar. That would certainly be lost with development.
- Having homes built with a junction so close to the cycle path entrance is not safe on an already unsafe road.
- Roads in the area have no footpaths.
- The calculation for increase in traffic is grossly underestimated.
- The small lanes in the area cannot cope with the additional traffic that this will bring.
- The development accessing Eastergate Lane would attract more traffic using local lanes and West Walberton Lane so there is a need to make sure these will be safe for all users.
- Object to the position of the development entrance. There is a notorious blind bend to the east and this stretch of road is a 40 mph zone.
- The site plan is misleading excluding the blue line area which floods. Surely the site refers to the whole application.

#### **COMMENTS ON REPRESENTATIONS RECEIVED:**

The Parish Council and third party comments are noted and will be addressed in the Conclusions section, where they relate to material planning matters.

#### **CONSULTATIONS**

#### **CONSULTATION RESPONSES RECEIVED:**

ARCHAEOLOGY: - Although there appear to be no archaeological sites in the vicinity an area such as this on the coastal plain adjacent to an ancient water course should be expected to contain deposits of interest associated with early settlement that might be destroyed by the development. It would be appropriate to require that the archaeological potential of the site be evaluated by trial trenching ahead of



development in order to ensure that the significance of anything of interest identified might be properly conserved. This process should be secured by condition.

**ARUN DISTRICT CONSERVATION AREA ADVISORY PANEL:** - It is considered difficult to see, despite the arguments in the planning statement how a reduction in the number of units by five can overcome the Inspector's view relating to the last application that residential development on the site would cause limited harm to the setting of the Walberton Green Conservation Area, through suburbanising its low density character. He considered that whilst the harm would be less than significant the public benefits accruing from the scheme would not outweigh that harm.

The panels view is that there is not only a suburbanising effect on the setting of the conservation area but also the rural character of the roads entering it from the west adding to the detrimental effect.

Should the Council be minded to grant permission given the sensitivity of the site it is essential that high quality materials, finishes and detailing are required for the new buildings, the design of some perhaps needing improvement. The plain tiles mentioned need to be clay and not concrete, any slates need to be natural. The panel consider that PVCU fenestration is not appropriate. Painted timber or second best, powder coated aluminium windows with traditional opening mechanisms should be required.

**CONSERVATION OFFICER:** - In assessing the previous scheme, the Inspector concluded "that the development would cause some limited harm to the setting of the Walberton Green Conservation Area through suburbanising its low density character, but that harm would be less than significant.

It is noted that in paragraph 5.69 of the heritage statement that "in light of the Inspector's decision and the revised scheme, the development proposals would cause only very minor, less than substantial harm to the significance of the Walberton Green conservation Area through change to its setting. This would equate to harm at the lowermost end of the broad less than substantial harm spectrum".

The impact of the development would result in some harm to the setting of the designated heritage asset, and harm its significance. This can be described as causing less than substantial harm in accordance with paragraph 202 of the NPPF. You will also need to consider the public benefits that the development may achieve as part of your assessment of the application, along with the contents of the Planning (Listed buildings and Conservation Areas) Act 1990 (as amended).

**ADC DRAINAGE** - No objection subject to conditions requiring submission and approval of detailed drainage strategy, discharge into the watercourse, maintenance and management of the surface water drainage system and submission for a completion report for surface water drainage.

**ENVIRONMENT AGENCY:** - No objection subject to condition to ensure no development in the floodplain.

**ENVIRONMENTAL HEALTH:** - Having reviewed the revised 'Combined Desk Study and Interpretative Site Investigation Report with Remedial Strategy Proposals' report, produced by Forge Environmental Management Limited (Ref: WAL168.D/DSS/001 Rev. 3) dated 18 September 2023, I am satisfied that our previous comments have been addressed. I recommend replacing the full contaminated land condition recommended in the original response with the following 'precautionary' condition, in case any contaminated material is identified during the development.

**NATIONAL HIGHWAYS:** - No objection. The proposal would not materially affect the safety, reliability and/or operation of the strategic road network.

**NATURAL ENGLAND:** - No objection. Based on the plans submitted, Natural England considers the

development will not have significant adverse impacts on statutorily protected nature consideration sites.

**SUSSEX POLICE:** - General comments received referring to guidance. The development should be designed to be secured by Design Standards. The orientation of the dwellings will ensure that all publicly accessible areas benefit from overlooking and good natural surveillance. Parking provision is primarily on plot, with car barns and allocated parking within parking courts along with the provision of 5 visitor spaces. Where communal parking occurs within the development it is important that they must be within view of an active room within the property. Where lighting is implemented it should conform to the recommendations within BS5489-1-2020.

**LANDSCAPE AND GREENSPACE:** - No objection on landscape grounds to the layout proposals, subject to full details of maintenance and management of open space being secured, a detailed landscaping scheme.

**SOUTH DOWNS NATIONAL PARK AUTHORITY:** Response received, no comments to make.

**WSCC EDUCATION:** - Objection. Developers are required to mitigate the impact of their proposed developments and, where appropriate, provide or make contributions towards site specific education provision where a specific need is identified arising from the impact of the development. School places are required in perpetuity to mitigate planned development.

Until such time that a new secondary school to meet Arun requirements in accordance with the Council's commitments is built and open to pupils, transport costs are required to mitigate the additional costs to transport pupils from Arun District, who were unsuccessful in securing a place at one of their preferred schools or catchment school, to access education places at an alternative secondary school within West Sussex. West Sussex County Council will seek a contribution from proposed developments towards funding the provision of home to school transport in accordance with the West Sussex home to school transport policy. This contribution seeks to cover the cost of providing new or additional transport, based upon a calculation of the number of pupils generated by the development that require secondary school places before a new secondary school in Arun is delivered.

**WSCC HIGHWAYS (LHA):** - Advice. Would be satisfied in principle subject to the Safety Auditor confirming acceptance to the Designers Response. Confirm that there would be no concerns with the development from a capacity perspective.

The LHA has reviewed the parking allocation submitted with the TS and is satisfied with the allocation of 63 parking spaces for cars throughout the development. In terms of layout the LHA would be satisfied with the turning facilities for vehicles in the development. Swept path diagrams have been included. LHA parking standards (September 2020) for 2021 dictate that 33% of spaces should be 'Active' in supporting EV Charging infrastructure, this should be included in the final allocation.

**WSCC LOCAL LEAD FLOOD AUTHORITY (LLFA):** - The applicant has sufficiently addressed our requirements and is in accordance with NPPF and local planning policy, No objection subject to conditions.

**WSCC MINERALS & WASTE (MWPA):** - Following the consultation response issued by the MWPA (22/08/2023), which requested the submission of a proportionate Minerals Resource Assessment (MRA), the applicant has provided a MRA which details that the site would not be suitable for the full prior extraction of the safeguarded mineral resource owed to the potential unacceptable impacts this would cause on the amenity of nearby residential receptors and the nearby conservation area. The MRA concludes that the applicant would support the decision to explore the incidental extraction of the safeguarded mineral

during construction for reuse in the development, as appropriate.

While there is little assessment as to why the prior extraction of the mineral would result in the impacts anticipated, the MWPA is satisfied that the incidental approach to extraction would result in the potential use of the safeguarded mineral in the site, as appropriate. Subject the LPA being satisfied that it has been adequately demonstrated that prior extraction of the safeguarded mineral at the site would not be economically practicable or environmentally feasible, the MWPA offer no objection and recommend the determining authority include a pre-commencement condition to secure the incidental extraction of the mineral.

**ECOLOGY:** - The mitigation measures in the Ecological Impact Assessment (EclA) (Ecosupport, July 2023) should be secured by condition and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Dormice, reptiles, Badger, Hedgehog and breeding birds. Support the reasonable biodiversity enhancements, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the NPPF (2021). The reasonable biodiversity enhancement measures which have been detailed within the EclA and included on a plan should be implemented in full. This will enable LPA to demonstrate compliance with its statutory duties including its biodiversity duty under s40 Natural Environment and Rural Communities (NERC) Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to conditions based on BS42020:2013. We recommend that submission for approval and implementation of the details should be a condition of any planning consent.

**WEST SUSSEX FIRE & RESCUE:** - Advice regarding request for fire hydrant or stored water supply at the site.

#### **COMMENTS ON CONSULTATION RESPONSES:**

Noted. Recommended conditions/informatives have been included, where appropriate.

#### **DEVELOPMENT PLAN POLICIES**

##### [Arun Local Plan 2011 - 2031:](#)

AHSP2	AH SP2 Affordable Housing
CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment
INFSP1	INF SP1 Infrastructure provision and implementation
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

<a href="#">Walberton Neighbourhood Plan Policy 2017 HP1</a>	Spatial Plan of the Parish
Walberton Neighbourhood Plan Policy 2017 HP13	Design Guidance
Walberton Neighbourhood Plan Policy 2017 VE3	Protection of Trees and Hedgerows
Walberton Neighbourhood Plan Policy 2017 VE4	Conservation Areas and Areas of Special Character
Walberton Neighbourhood Plan Policy 2017 VE7	Surface Water Management

**PLANNING POLICY GUIDANCE:**

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The relevant policies in the Arun Local Plan (ALP) and Waberton Neighbourhood Plan (WNDP) have been considered.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of TCPA provides that:-

- (2) In dealing with an application for planning permission the authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application, a post-examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

The proposal is considered to comply with relevant Development Plan policies in that the proposals are in conflict with the made Neighbourhood Plan is and the NPPF advises that this conflict should not be outweighed by the presumption in favour.

**LISTED/CA**

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special

architectural or historic interest which it possesses."

Where the building is located in a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to accord with these criteria in that it is considered to result in less than substantial harm to the setting of the character of the Conservation Area and the public benefits do outweigh the harm to the heritage asset.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are other material considerations sufficient to be weighed in the balance with the Development Plan, including the delivery of market and affordable housing towards meeting the District's identified need. Other material considerations are discussed below.

#### **CONCLUSIONS**

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Walberton Neighbourhood Development Plan made in 2021 ("WNDP") and the West Sussex Waste and Minerals Plans.

Section 38 (5) of the Planning and Compulsory Purchase Act 2004 states: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Any conflict between the current WNDP and the ALP, should be resolved in favour of the latter. The most relevant policies in the Local Plan (C SP1) has reduced weight as Arun cannot demonstrate an adequate supply of housing land (2.36 years).

Having regard to Policy SD SP2 of the adopted Arun Local Plan, and Policy HP1 of the 2021 WNDP, the sites lies outside the Built Up Area Boundary (within which development should be focused) and is defined as being in the countryside under the provisions of Policy C SP1 of the Arun Local Plan, where development will only be permitted for a defined list of countryside uses.

Policy HP1 of the WNDP relates to the Built Up Area Boundary (BUAB) and states proposals for development outside of the BUAB, that do not accord with the development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure.

The provisions of Policy SD SP2 and Policy C SP1 preclude residential development on the site. The principle of development is contrary to the development plan.

In January 2023, the Council republished its Authority Monitoring Report (AMR). This states the HLS is now at 2.36 years. The HDT results for the district have been below 70% since 2018. Given this position, the policies most relevant to the determination of the application are considered out of date and have reduced weight.

Paragraphs 10 and 11 confirm that at the heart of the NPPF is the presumption in favour of sustainable

development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay. Alternatively, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Footnote 8 confirms that, for applications involving the provision of housing, this includes situations where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 74), or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 14 of the NPPF states that in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan will not significantly and demonstrably outweigh the benefits if four specific criteria apply. The proposal does not comply with at least 3 of the stipulated criteria. Specifically, criterion a, as the WNDP became part of the development plan more than 2 years ago, criterion c as the local authority has less than a 3-year supply of deliverable housing sites, and criterion d as the Local Planning Authority's housing delivery was below 75% of that required over the previous 3 years. Paragraph 14 of the NPPF does not apply and the conflicts with the provision of the WNDP are not in themselves considered to significantly and demonstrably outweigh the benefits of the provision of housing in this proposal.

Paragraph 11d of the NPPF requires the LPA to engage a 'tilted balance' and to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so when weighed against the NPPF policies as a whole.

As such, while the proposal is contrary to the policies of the Arun LP and Walberton NP, given the Local Authority HLS position these policies are considered not to be up to date. Therefore, the provision of paragraph 11d of the NPPF are engaged and as such there is a presumption in favour of sustainable development that does not significantly and demonstrably outweigh the benefits of the provision of housing in this proposal and a tilted balance will apply.

For the reasons set out below, there are not such harmful impacts which would significantly and demonstrably outweigh the benefits of the proposal.

The Councils HLS position has changed since the previous refusal and dismissed appeal. The previous application listed non-compliance with policies C SP1 of the Arun LP and HP1 of the WNDP as a reason for refusal (reason 1). In light of the new position set out above, that the LP and NP policies are considered not to be up-to-date and paragraph 11d is engaged, this reason for refusal is no longer relevant to this application.

## SUSTAINABLE DEVELOPMENT

The site is less than 500m to the centre of the village to the east. This short walk to the village centre provides access to the village hall, community play centre, village sports pitches, Walberton & Binsted C of E Primary School, a post office, pub, church and other local services and facilities. Therefore the site represents a sustainable location for new housing.

The site benefits from links with local footpaths and bridleways, as well as a local cycle route that runs along West Walberton Lane, around Walberton Green and along Eastergate Lane, before connecting with the dedicated cycle route that runs in a southerly direction from Eastergate Lane located opposite

the southern boundary of the site.

Paragraph 8 of the NPPF sets out three objectives in relation to sustainable development comprising social, environmental, and economic. Taking each in turn, the proposal would provide social gains resulting from the provision of affordable housing; the proposed mix of house types; limited increase in accessible open space and the increased use of local services and facilities.

The officer report for the previous proposal raised concern with the impact on the character of the open countryside, despite being adjacent to the BUAB, and as such there were not considered to be environmental gains. In the Inspector's decision, although ultimately dismissed, they noted that while there would be an erosion of the open and undeveloped character of the site, they did not agree that the site is visually separate from the village given the presence of housing to the north and south, and the presence of the village green to the east. The inspector considered that the presence of substantial field hedge and trees along the western boundary limited views from the countryside further west. The inspector determined that the development would be seen as an extension of the existing built form rather than an intrusion into the open countryside.

Further to this, the scheme currently for consideration has seen a reduction in the amount of development proposed and an increase in landscaping and biodiversity enhancements. Taking the above into consideration, environmental gains would be provided in this scheme through the proposed biodiversity net gain as well as enhanced landscaping with additional planting. Given that there would only be limited harm to the environment through the loss of the open and undeveloped nature of the site, due to the degree of containment and retention of the most important landscape features which would screen it from wider view, this harm is not considered to outweigh the stated environment gains.

There would be some, albeit limited, economic benefits through the creation of construction jobs, increased local spending, and broader benefits of housebuilding contributing to wider economic recovery.

The proposal is considered to align with the overarching objectives set out in paragraph 8 of the NPPF and as such comprises sustainable development.

## HERITAGE

Policy VE13 of the WNDP relates to distinctive views and vistas, including View 1 looking west towards Walberton Village Green and pond. Development proposals should respect and, where possible, enhance distinctive views and vistas by ensuring that their visual impact on these views is carefully and sympathetically controlled.

Policy VE4 states that proposals that adversely affect the setting of the two Conservation Areas will not be supported. New development must protect the open/rural character of the Conservation Area's setting and sustain or enhance the visual connections between the village's core and its rural hinterland, including longer views to the South Downs, which contribute to the character of the Conservation Area.

Policy HER SP1 seeks to conserve the historic environment through protecting designated and non-designated heritage assets. It states that developments that prejudice the conservation of the assets or their setting will be refused. Policy HER DM3 outlines how the Council will preserve and enhance the character and appearance of Conservation Areas.

Paragraph 197 of the NPPF requires decision taking to take account of the desirability of preserving the significance of a heritage asset and the positive contribution that the conservation of the asset can make to sustainable communities. Paras 199 - 200 set out how the significance of an asset will be assessed and para 201-202 confirm how harm to assets will be quantified.

The eastern most part of the site is in the Conservation Area. There is no built form proposed in the Conservation Area. A Heritage Statement has been submitted to fulfil the requirements of paragraph 194 of the NPPF.

The previous application at the site identified less than substantial harm which was not considered to be outweighed by the public benefits of the scheme and listed this as a reason for refusal (reason 3).

As part of the proposed development, new built form will be set back from the Walberton Green Conservation Area (located to the east).

ADC's Conservation Officer notes the Green has an important relationship with, and transition towards the adjoining countryside. The Conservation Officer considered the scheme and Inspectors decision along with the heritage statement. The Conservation Officer notes that while the eastern most part of the site lies in the Conservation Area the built form of development lies beyond it and as the impact on the Conservation Area relates to its setting rather than its intrinsic character and appearance.

The Conservation officer notes that some effort has been made to ensure the scheme references the local character but notes that materials, joinery details and finished would need to be of a very high standard and as such a materials condition is proposed.

The proposal is such that the impact can be described as causing less than substantial harm in accordance with paragraph 202 of the NPPF (2023). The Inspector agreed that the previous proposal for a larger scheme would also amount to less than substantial harm. The proposal is reduced by 5 dwellings and incorporates an enhanced landscaping scheme and biodiversity net gain. Less than substantial harm is considered as a broad spectrum. The less than substantial harm in this case would be considered to be at the lower end of the scale, owing to the factors set out above.

In accordance with paragraph 202 of the NPPF the public benefits of the development need to be considered as part of the assessment of the application, along with the contents of the 1990 Act (as amended). It is therefore necessary to consider the public benefits that the development may achieve balanced against the development of the site. These include:

- Providing much needed housing to meet the deficit in Arun's 5-year Housing Land Supply (HLS), including more than 30% of the units as affordable.
- Creating construction jobs.
- Additional spending by new residents on local goods and services.

In conclusion, the public benefits of the proposed development are considered to outweigh the less than substantial harm caused to the Conservation Area and the proposal, therefore, complies with policies HER SP1 and HER DM3 of the Arun LP, policies VE4 and VE13, the NPPF and Section 72 of the Act.

## CHARACTER & DESIGN

Policy D DM1 of the Arun Local Plan requires the Council seek to make the best possible use of land by reflecting or improving on the character of the site and the surrounding area. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. New housing should make efficient use of land while providing a mix of dwelling types and maintaining character & local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development keep within the general confines of the overall character of a locality. Arun LP policy D SP1 "Design" requires development to make efficient use of land and reflect local character.



Policy VE13 of the WNDP states that development proposals should respect and, wherever possible, enhance distinctive views and vistas by ensuring that the visual impact on these views is carefully and sympathetically controlled. Schedule 7 of the Plan identifies one of these from Walberton Green facing northwest and southwest towards the proposed application site.

The National Design Guide (NDG) is a material consideration in the determination of this application. It states that achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials, and their detailing. It sets out ten characteristics of beautiful, enduring, and successful places: Context, Identity, Built Form, Movement, Nature, Public Spaces, Uses, Homes & Buildings, Resources and Lifespan. The applicant provided a Design and Access Statement (DAS) which responds to these headings and concludes the scheme will blend harmoniously in the surrounding area providing high quality, well designed dwellings and spaces for the future residents.

The design of the proposed buildings clearly takes reference from the local character. The design process and design evolution are set out in the submitted DAS which demonstrate how the scheme has used the surrounding character to influence massing, form and design detail of the proposed buildings. An appropriate mix of styles has been incorporated to ensure variation and interest, whilst maintaining a coherent approach.

The layout has been amended since the refused scheme which results in the built form being arranged in a more linear form roughly following the line of West Walberton Lane, which is considered a positive change more reflective of the local character, in particular that of West Walberton Lane.

The Arun Design Guide suggests a density of 15-25 for detached/semi-detached houses in village locations and states density should decrease with distance from the centre of a settlement, to ensure development relates sensitively to its setting and addresses edges of the site in a positive way. The site density of approximately 27 dwellings per hectare slightly exceeds this range, however this is a minor exceedance above the suggested density range and considering the density of the surrounding built form it is considered to be acceptable in this instance. The layout meets all other policy requirements.

Eastergate Lane and West Walberton Lane, which border the site and traverse The Green have a more rural character being fairly narrow, with limited street lighting or paving, and grass verge areas. They contribute to the attractive setting and special character of the local area. Whilst there is development on the north side of West Walberton Lane, this has a more rural character. In his assessment, the Planning Inspector found that while there would be an erosion of the open and undeveloped character of the site, they did not agree that the site is visually separate from the village given the presence of housing to the north and south, and the presence of the village green to the east. The Inspector considered that the presence of substantial field hedge and trees along the western boundary limited views from the countryside further west. The Inspector determined that the development would be seen as an extension of the existing built form rather than an intrusion into the open countryside. The Inspector concluded there would be limited harm to the character and appearance of the area and limited policy conflict.

The scheme currently for consideration has seen a reduction in the amount of development and an increase in landscaping and biodiversity enhancements. It is logical that in this instance there would also only be limited harm to the character and appearance of the area through the loss of the open and undeveloped nature of the site, due to the degree of containment and retention of the most important landscape features which would screen it from wider views.

The layout and architectural treatment of the dwellings is considered to be of a high quality and taking into consideration the Inspectors comments and the assessment made of this scheme, the harm

identified is considered to result in a limited policy conflict with policies VE13, D SP1 and D DM1. However, this conflict must be balanced against the benefits arising from the scheme. This is covered in the planning balance section below.

Given the above it should be noted that the council's previous reason for refusal (reason 2) relating to harm to the character of the area would no longer stand.

#### **TRAFFIC, ROAD SAFETY & PARKING**

ALP policy T SP1 seeks to ensure development provides safe access to the highway network and contributes to highway improvements & promotes sustainable transport. It states schemes must explain how development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter.

T SP1 states proposals must incorporate appropriate parking taking into consideration the impact of development on on-street parking. Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities, and contribute towards provision of a joined-up cycle network and Public Rights of Way network.

Para 110 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 111 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

WSCC Highways are satisfied the proposal will not result in an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. The proposal is not contrary to the NPPF (para 111), and there are no transport grounds to resist the proposal.

The proposed access is from Eastergate Lane. This includes a new crossing to connect with the shared footway and cycleway opposite. The location of this access requires a small number of Category C trees to be removed. The Primary carriageway within the site has been designed to adoptable standard.

Parking provision is in accordance with Arun District Council's Parking Standards Supplementary Planning Document (SPD). On street parking has been avoided where possible with the use of private driveways, on plot parking, car barns and parking courts, on street parking is reserved for visitor spaces adjacent to the POS. Five visitor parking spaces are provided which accords with the required 20% of the total number of dwellings being proposed. A total of 3no. disabled parking spaces are also provided, meeting the 5% requirement.

The proposals accord with policies in the Arun Local Plan and WNDP in respect of highways and parking.

#### **BIODIVERSITY**

Policy VE10 of the WNDP relates to biodiversity corridors which states proposals that have a positive impact on the local ecology will be encouraged, subject to other policy constraints. New development in or immediately adjacent to the biodiversity corridors will only be supported where it can be clearly demonstrated the proposals will not give rise to any significant harm to the integrity or function of the biodiversity corridors. The WNDP has designated a biodiversity corridor in the eastern part of the site.

Policy ENV SP1 confirms that Arun District Council will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites. Where possible it shall also promote the creation of new areas for habitats and species.

A 5m buffer will be kept between the development and the hedgerows and Tree Root Protection Zones have been established and will be protected. The application site is within 12km of the Wider Conservation Area for Singleton and Cocking Tunnels (Special Area of Conservation) SAC.

The applicant has submitted the following information including:

- Proposed site layout;
- BNG Assessment (Ecosupport, June 2023);
- Ecological Impact Assessment (EclA) (Ecosupport, July 2023); and
- Shadow HRA & Shadow Appropriate Assessment (Ecosupport, July 2023).

The Council's Ecologist concludes the site is classified as having high quality habitat to support commuting and foraging bats and has a regional value for both commuting and foraging bats.

The Ecologist is satisfied that the mitigation proposed would be suitable for Dormice and Reptiles and recommends that Hedgehog nesting boxes should be installed.

The Ecologist welcomes the fact that a 5m buffer will be incorporated into the design with the separation of these boundary hedgerows from the garden areas to prevent the cutting down of the hedge. Tree protective fencing must be in place prior to any construction machinery arriving on site, before any works on site get underway and must remain in place until all works are completed.

The chalk stream will need to be retained and enhanced for wildlife. This includes a buffer strip around the chalk stream (5m) and during construction fencing should be used to ensure this area is undisturbed.

The Ecologist notes that the development will result in an anticipated BNG in hedgerow units of +1.91 (+18.03%). The site will result in a loss of -7.27 (-35.93%) habitat units. The applicant is proposing use of offsite compensation to secure a net gain in habitat units. The applicant has submitted a Biodiversity Net Gain Technical Summary which sets out clearly what biodiversity enhancements can be achieved on site and why these don't result in a net gain. The summary then goes on to set out off-setting options which the applicant has considered. Four options are considered including, Mayles Farm - a site in Hampshire, the Iford Project - a Biodiversity Habitat Bank which is endorsed and delivered in partnership with the South Downs National Park Authority, The Environment Bank, and the Government Biodiversity Credit Scheme. The applicant has explored the availability of BNG schemes within the district and none have been identified. The applicant's ecologist has identified that both the Environment Bank and Government Biodiversity Credit Scheme are not currently available, therefore, the most sequentially-preferable method of achieving net gain would be through off-site compensation provided through either the Mayles Farm scheme in Hampshire or The Iford Project in the South Downs National Park.

In line with Policy ENV DM5 of the Arun Local Plan information on Biodiversity Net Gain needs to be provided as part of the planning application prior to determination. The applicant has identified two off-site schemes which have credits available in neighbouring authority area. Given that the schemes lie outside the district the credits have a reduced value and so a spatial risk multiplier of 0.75 is added. The applicant has agreed to secure the offsite Biodiversity Net Gain identified through an obligation in a s106 agreement.

The Ecological Impact Assessment (EclA) (Ecosupport, July 2023) recorded Barbastelle bat activity

during the static bat surveys, which is a qualifying species of the SAC. The Shadow HRA Assessment & Shadow Appropriate Assessment (Ecosupport, July 2023) sufficiently assesses impacts upon the SAC and the EclA considers impacts to foraging and commuting bats. The EclA has recommended buffer hedgerow planting, the retention of existing boundary features and wildlife sensitive lighting scheme. The Ecologist is satisfied with the impact assessment which has been carried out and a wildlife sensitive lighting design can be secured by a condition. The Ecologist is content that through the protection of the majority of the boundary features, the scale of the development is such that no severance or significant impacts on Barbastelle bats are predicted. The Ecologist recommends that, with mitigation secured, the LPA can record that the development can avoid adverse effects on integrity. An Appropriate Assessment has been carried out by the LPA. Natural England have been consulted upon the Appropriate Assessment and have responded stating they have no comments to make.

Subject to mitigation and enhancement measures, the development would contribute in the 'preservation, restoration and enhancement of biodiversity and the natural environment' in accordance with Policy ENV SP1 of the Arun Local Plan. It would avoid adverse impacts on designated sites of biodiversity or geological importance as required by Policy ENV DM1 and would 'incorporate elements of biodiversity minimising adverse impacts on existing habitats' in accordance with Policy ENV DM5.

Therefore, the proposals are satisfactory in this regard.

#### RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Arun Design Guide sets out guidance on garden depths and interface distances between houses:

- Back to Back: min. 21m between habitable rooms of properties or to existing buildings;
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property;
- Front to Front: min. 16m between habitable rooms of properties facing each other; and
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

The proposals are in general conformity with these requirements.

#### INTERNAL & EXTERNAL SPACE STANDARDS:

As per ALP policy D DM2, it is necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the buildings will be suitable for residential use.

The Arun Design Guide sets out standards for garden sizes as follows:

- Private Rear Garden: min. 10.5m depth;
- Private Front Garden: min. 2m depth;

The proposals are in general conformity with these requirements.

#### HOUSING MIX:

ALP policy HDM1 requires that all housing development should provide a mix of dwelling types/sizes to address the nature of local housing needs and market demand. The policy does not prescribe a specific housing mix that must be met by individual applications, with the policy stating each must be considered

on its own merits and on a site by site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

Policy HP6 of the WNDP seeks a range of house types and tenures, including a proportion of housing to meet the needs of an ageing population.

The 2012 SHMA was the subject of an update by GL Hearn in 2016 ("Updated Housing Needs Evidence", September 2016) in which paragraph 6.3 stated the evidence highlighted a direction towards the provision of 2 and 3 bed units for market units and smaller affordable units. The 2016 update acknowledges at paragraph 6.10 that affordable (rented) need is more heavily skewed towards smaller dwellings and market housing predominantly homes with three or more bedrooms. Table 29 identifies a suggested broad mix of market housing by size for the district:

The proposed development comprises the following market housing mix:

- 3 x 2 bed dwellings (18%);
- 10 x 3 bed dwellings (58%);
- 4 x 4 bed dwellings (24%).

Whilst the proposal deviates from the mix set out in policy, given the edge of village location of the site it is an appropriate mix of dwellings which provides an appropriate density and maintains the transitional character of the edge of settlement development in the locality.

#### AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The policy states affordable housing should be visually indistinguishable from market housing with large groupings of single tenure dwellings or property types avoided. Affordable housing units shall be permitted in small clusters throughout development schemes.

A total of 8 dwellings are provided as affordable. The proposed development comprises the following affordable housing mix:

- 4 x 1-bed dwellings (50%);
- 3 x 2 bed dwellings (38%);
- 1 x 3 bed dwellings (12%).

The applicant proposes a tenure split of 75% (6 dwellings) affordable rent and 25% (2 dwellings) intermediate dwellings, which accords with the requirements of policy AH SP2.

The proposed mix reflects the indicative mix in AH SP2 with the exception of 4-5 bedroom dwellings where none are proposed.

#### HOMES FOR OLDER PEOPLE AND THOSE WITH DISABILITIES:

Arun DC has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted development plan policy or a Supplementary Planning Document, but is considered to have some weight as a material planning consideration. It is supported by references in ALP policies D DM1 & D DM2. This internal policy requires at least 8 of the homes (30%) are designed to the M4(2) standard, and that 2 are designed to meet M4(3) i.e. be wheelchair accessible.

The applicant has provided a plan to show that 30% of the homes (8no.) would comply with M4(2) standards and 2no. homes would be capable of achieving M4(3) standard.

**FLOOD RISK & SURFACE WATER DRAINAGE:**

ALP policy W DM3 requires all development identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process. Policy VE7 of the WNDP states that new development should aim to reduce the overall level of flood risk through a series of criteria.

Land to the west of the site is in Flood Zones 2 & 3. This land previously formed part of the site, but in this application it has been removed from the red line boundary and is shown with a blue line denoting it is in the applicant's control but does not form part of the development site. This area of the site has been kept free from built form and comprises open space. These features are capable of being controlled via condition within the blue line should permission be granted.

The application site is now wholly in Flood Zone 1 (lowest risk), as such is an appropriate place for residential development in flood risk terms and as the application site no longer contains areas of flood zone 2 and 3 there is no requirement for the applicant to carry out a sequential or exception test. The previous reason for refusal (reason 4) and the issues raised in the Inspector's decision relating to flood risk are no longer applicable.

The Flood Risk Assessment and Drainage strategy have been assessed by the Lead Local Flood Authority and the Drainage Engineers and both have not objected, subject to conditions. The drainage strategy has been designed to achieve a 44% run off rate betterment in the 1:30 year storm and 22% betterment in the 1:100 year +45% climate change events.

The flood risk assessment and drainage strategy are appropriate for the site and for the development, and adequately demonstrate the site is safe to develop with regard to flood risk and surface water in accordance with national and local policy.

**FOUL DRAINAGE:**

ALP policy W DM1 states major developments must demonstrate, that adequate drainage capacity exists or can be provided as part of the development. Where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development. Policy W DM1 states that a drainage impact assessment is required for all major development.

The foul drainage strategy shows a connection from the site to the public foul sewer in Eastergate Lane. This allows for a gravity discharge from the site and will need to be confirmed and approved by Southern Water.

Southern Water have previously stated that additional flows may lead to an increased risk of foul flooding from the sewer network and any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water. While Southern Water have not provided comment on this application at this time it is appropriate given their previous comments to include a suitably worded condition. Subject to this, the proposals would accord with Policy W DM1 of the Arun Local Plan.

**ENERGY AND CLIMATE CHANGE:**

Arun LP policy ECC SP2 requires that all new residential and commercial development be energy

efficient and incorporate decentralised, renewable, and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

The Energy Statement confirms that the proposal can comply with the requirement of policies ECC SP1 and ECC SP2 of the Arun LP. Air source heat pumps are proposed on all dwellings. These measures can be secured via condition.

#### **PUBLIC OPEN SPACE & PLAY:**

Arun LP policy OSR DM1 requires housing developments to provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. The Councils SPD "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 2,745 sqm of Public Open Space (POS) for development of this size and a separate play provision of an onsite, unequipped natural play LAP.

Open space is provided throughout the site. To the eastern boundary lies Walberton Green and the Conservation Area, the development has been set back allowing for a new area of POS and creating a green buffer. A village green area (POS) is proposed adjacent to the west boundary with the mature trees and vegetation along this boundary being retained and enhanced. A pond is proposed which has a dual purpose of encouraging wildlife and to provide an attractive feature for future and existing residents as well as sustainable drainage system. The top of the site (north) is to be retained for ecology and biodiversity purposes providing a continuous 5m wide green corridor from the north to south of the site.

The provision of open space and play space is above that required by Arun LP policy OSR DM1 and the Councils SPD and subject to conditions the landscape scheme would result in a high-quality development.

#### **TREES**

Policy VE3 of the WNDP states that development will be permitted where it can be demonstrated that trees and hedgerows contributing to local amenity will not be damaged or destroyed and that development that damages or results in the loss of ancient trees/ trees of arboricultural and amenity value or loss of hedgerows or significant ground cover and habitat will be resisted.

ALP policy D DM1 states development is expected to incorporate existing and new tree planting as an integral part of proposals. Policy LAN DM1 requires that development respects the characteristics & natural features of the relevant landscape character areas and aim to reinforce or repair the character of those areas. Policy D SP1 requires development proposals to reflect the characteristics of the site and local area in their landscaping.

The layout shows that those trees on the western edge are to be incorporated into an area of open space, and the creation of a landscape buffer zone that should perpetuate the existing wildlife corridor within and beyond the site.

An existing green boundary is evident to the perimeter of the proposals, this would require further, supplementary planting to enhance and improve it. Apart from the site boundaries, the site is largely devoid of trees and only two individual trees and one group is proposed for removal. The two trees for removal are deceased, the Group is classified as Category C and are being removed to provide an access.

The proposal is considered to be satisfactory subject to conditions with regard to trees.

**MINERALS**

The applicant provided a Minerals Resource Assessment (MRA) which details that the site would not be suitable for the full prior extraction of the safeguarded mineral resource owing to the potential unacceptable impacts this would cause on the amenity of nearby residential receptors and the nearby Conservation Area. The MRA demonstrates to the satisfaction of the LPA that prior extraction would not be economically practicable or environmentally feasible. The MRA concludes that the applicant would support the decision to explore the incidental extraction of the safeguarded mineral during the construction phase for reuse within the development, as appropriate.

The Minerals and Waste Planning Authority (MWPA) is satisfied that the incidental approach to extraction would result in the potential use of the safeguarded mineral within the site, as appropriate and raised no objection subject to the imposition of a condition.

**SUPPORTING INFRASTRUCTURE:**

ALP Policy INF SP1 requires that development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and the existing community. Any off-site provision or financial contributions must meet the statutory tests for planning obligations required by Regulation 122 of the Community Infrastructure Regulations 2010.

The Parish Council will be provided 25% of the CIL receipts to spend on their own projects. These payments go towards providing the infrastructure that the district needs to support existing and future development. On this basis, there is no conflict with ALP policy INF SP1.

Affordable housing provision would also be required to be secured via a planning obligation.

On-site provision of open space and play equipment can be secured via a planning condition.

WSCC Education require a sum for school transport to mitigate the impacts of the proposed development upon Education which can be secured via planning obligation.

Therefore, subject to completion of a Section 106 agreement in line with the above the proposals would accord with policy INF SP1 of the Arun Local Plan.

**SUMMARY & PLANNING BALANCE**

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 2.36-years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered. This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

In respect of the part (ii) test, the report identifies that the proposal conflicts with the council's policies in respect of: development in the countryside; and impacts on the character and appearance of the area.

The site is sustainable, and the scheme will result in significant benefits to the local and wider area such as new housing (including affordable housing), the creation/retention of construction jobs, spending by future residents on local shops/services, infrastructure improvements across the district and biodiversity



enhancements.

The weight to be applied to the contribution of housing development to the HLS was discussed in the appeal for the previous application (APP/C3810/W/22/3291254), where the inspector gave this matter significant weight. In this case it would be appropriate to, similarly, allocate significant weight to the contribution to the housing shortfall. In that appeal, the Inspector afforded significant weight to the delivery of affordable housing and limited weight to the economic benefits of the scheme, limited weight to the environmental benefits of the scheme such as biodiversity enhancements, and neutral weight to the social benefits of the scheme. These weightings are relevant to this application.

In the appeal the Inspector gave moderate weight to the conflicts with policies with regard to location of development and limited weight to the impacts on the character and appearance of the area. Once again, it is appropriate to apply the same weighting here.

Development in the countryside is against policy but such a refusal reason would not be sustainable unless there was associated harm. There is policy conflict with Arun LP Policy W DM1, but this does not generate any harm and as such can only be considered to carry limited weight.

Taking into consideration the tilted balance as required by paragraph 11d and weighing all matters together, the adverse impacts identified do not significantly and demonstrably outweigh the benefits and there is no conflict with other policies within the NPPF.

**RECOMMENDATION:**

The recommendation is for Planning Committee to delegate to the Group Head of Planning in consultation with the Chair or Vice Chair with authority to:

Grant permission subject to the conditions and informatives as set out in the report (including any report update or additional conditions voted for inclusion by the Committee), and subject to the satisfactory completion of a section 106 Agreement, the terms of which are substantially in accordance with those set out in this report (as may be amended by report update), with any minor amendments authorised by the Group Head of Planning.

Should the s106 not be completed within 4 months of the date of the Planning Committee's resolution to grant permission, or should the applicant refuse to reach agreement with WSCC as to the amount of secondary school transport contribution, the application shall be refused for the following reasons:

(1) In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision and is thereby contrary to the aims and objectives of the NPPF and policy AH SP2 of the Arun Local Plan.

(2) In the absence of a signed Section 106 agreement, the development will not provide the contribution required to mitigate the additional cost of transporting to secondary school pupils to the nearest school and is thereby contrary to ALP policy INF SP1 and the NPPF.

(3) In the absence of a signed Section 106 agreement to secure the agreed off-site Biodiversity Net Gain measures/contribution, the proposed development would be contrary to Policies ENV SP1, ENV DM1, and ENV DM5 of the Arun Local Plan.

**HUMAN RIGHTS ACT**

The Council in making a decision, should be aware of and take into account any implications that may

arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a positive impact on the protected characteristics (age/disability by providing M4(2) and M4(3) dwellings.

#### **SECTION 106 DETAILS**

- Affordable Housing.
- Maintenance and management of public open space.
- Education contribution towards school transport.
- Biodiversity net gain offsite.

#### **CIL DETAILS**

This application is CIL Liable therefore developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

#### **RECOMMENDATION**

**APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT**

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

- 2 The development hereby approved shall be carried out in accordance with the following approved plans and documents:

- Proposed Site Layout - Drawing No. DE\_001\_G\_01;
- Location and Block Plan - Drawing No. DE\_001\_G\_02;
- Affordable Housing Layout - Drawing No. DE\_001\_G\_03;
- Parking Strategy Layout - Drawing No. DE\_001\_G\_04;
- Boundary Materials Layout - Drawing No. DE\_001\_G\_05;

- Housing Mix Layout - Drawing No. DE\_001\_G\_06;
- Access and Movement Plan - Drawing No. DE\_001\_G\_07;
- Street Scenes Elevations - Drawing No. DE\_003\_E\_01;
- Landscape Masterplan - Drawing No. P20-2233\_07 Rev K;
- House Type Pack including Floor Plans and Elevations - Reference No. DE\_02\_B;
- Eastergate Lane Access Design and Visibility Plan prepared by Paul Basham Associates - Drawing No. 195.0002.002 Rev C;
- Ecological Impact Assessment (EclA) prepared by Ecosupport Ltd;
- Shadow HRA & Shadow AA prepared by Ecosupport Ltd;
- BNG Assessment prepared by Ecosupport Ltd, Nov 23;
- BNG Metric 4.0 V3 completed by Ecosupport Ltd;
- Arboricultural Impact Appraisal and Method Statement prepared by Barrell Tree Consultancy;
- Tree Protection Plan prepared by Barrell Tree Consultancy - Drawing No. 20145-7;
- Manual for Managing Trees on Development Sites prepared by Barrell Tree Consultancy; and
- Topographic Survey prepared by P Stubbington Land Surveys Ltd - Drawing No. 8450/01/B.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D SP1 and D DM1 of the Arun Local Plan.

- 3 No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity setting of the conservation area by endeavouring to achieve a building of visual quality in accordance with policy D SP1, D DM1, HER DM3 and HER SP1 of the Arun Local Plan.

- 4 No development shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: The site is of archaeological significance in accordance with Arun Local Plan Policy HER DM6. This is required to be a pre-commencement condition because otherwise the disturbance of earth could harm important deposits.

- 5 Prior to commencement of development 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, method statement, Flood Risk Assessment incorporating Drainage Strategy, CEP, Version 2.4), Drainage Strategy Plan (23609\_FRA\_08\_C CEP), Surface Water System Sections (23609\_FRA\_09 A & 10) and remaining 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 Authority.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 6 Immediately following implementation of the approved surface water drainage system and

prior to occupation of any part of the development, the developer/applicant shall provide the Local Planning Authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

Reason : To ensure that the proposed development is satisfactorily drained and in accordance with policies W SP1,W DM1, W DM2 and W DM3 of the Arun Local Plan.

- 7 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values and in accordance with current policies. No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. And to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion. It is considered necessary for this to be a pre-commencement condition to protect existing watercourses prior to the construction commencing.

- 8 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 9 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 10 Any works which will impact the breeding/resting place of bats, shall not in in any

circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve protected species and 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 s17 Crime & Disorder Act 1998. It is considered necessary for this to be a pre-commencement condition to te proper licences are in place before construction commences.

- 11 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the BNG Assessment (Ecosupport, Nov 2023) as submitted with the planning application and approved by the Local Planning Authority.

This may 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 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).

- 12 Prior to occupation, a "lighting design strategy for biodiversity" which shows no artificial illumination of the boundary hedgerows and trees shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and dormice and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

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).

- 13 A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to commencement of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period, covering a minimum of a 30 year period relating to Biodiversity Net Gain).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) 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.

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). It is considered necessary for this to be a pre-commencement condition to the proper landscape and ecological management measures are in place before construction commences.

- 14 No development shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority.

The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species). It is considered necessary for this to be a pre-commencement condition to the proper

precautions are in place to ensure no harm to reptiles before construction commences.

- 15 Prior to the first occupation of any dwelling forming part of the proposed development the developer shall, at their own expense, install the fire hydrant in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

Reason: In the interests of amenity and in accordance with policy INF SP1 and TSP1 of the Arun Local Plan 2011-2031 and in accordance with The Fire & Rescue Service Act 2004.

- 16 The development shall be carried out in accordance with the submitted flood risk assessment (ref v2.4 November 2023) and the following mitigation measures it details:

-No development, or alterations to ground levels, shall take place within the design flood outline as shown on drawing 05A in Appendix 6 of the submitted FRA. Any development of alterations within the design flood outline are likely to require floodplain compensation

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent flooding elsewhere by ensuring that there is no loss to floodplain storage in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

- 17 Prior to the commencement of development, a scheme for the incidental extraction of the safeguarded mineral resources underlying the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

- an assessment of the extent, volume and practicability for incidental extraction, which shall be based on detailed ground investigations; and,
- the methodology for which any identified incidental mineral extraction would be carried out, which shall include a detailed programme/phasing of extraction, the recording and monitoring of any safeguarded resource extracted and details of the proposed destination/use of the mineral.

Reason: To ensure the incidental extraction and recovery of any underlying safeguarded mineral resource, where practicable, in accordance with Policy M9 of the West Sussex Joint Minerals Local Plan (JMLP) and the National Planning Policy Framework

- 18 No development including site access, demolition or associated construction activities shall commence unless and until all the existing trees/bushes/hedges to be retained on the site have been protected in accordance with the details contained within the Arboricultural Impact Appraisal and Method Statement ref: 20145-AA5-PB and Tree Protection Plan ref: 20145-7. Within the areas so fenced off the existing ground must not be cultivated, nor must it be lowered or raised or added to by the importation and spreading of top soil unless agreed by the Local Planning authority. There must be no materials, temporary buildings, plant machinery or surplus soil shall be placed or stored thereon without prior written approval of the Local Planning Authority.

No trenching should occur within the protective fencing surrounding the Root Protection Area.

Reason: To ensure the retention and maintenance of trees and vegetation which is an important feature of the area in accordance with policy ENV DM4 of the Arun Local Plan. This is required to be a pre commencement condition because it is necessary to ensure that trees are fully protected before the ground is disturbed and works commence.

- 19 The approved development shall achieve a minimum of 10% energy supply reduction from either the use of decentralised/renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure a reduction in on site energy use in accordance with policy ECC SP2 of the Arun Local Plan and the NPPF.

- 20 No development shall take place, apart from the enabling works listed below (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), until a Construction & Environmental Management Plan and accompanying Site Setup Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with National Highways, WSCC Highways, the council's environmental health officer and ecologist as appropriate). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval:

- the phased programme of construction works;
- the anticipated, number, frequency, types and timing of vehicles used during construction (construction vehicles should avoid the strategic road network during the peak hours of 0800-0900 and 1700-1800 where practicable);
- the preferred road routing for all construction traffic associated with the development;
- provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulations Orders);
- details of street sweeping;
- details of a means of suppressing dust & dirt arising from the development;
- a scheme for recycling/disposing of waste resulting from demolition and construction works (i.e. no burning permitted);
- details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination);
- details of areas for the loading, unloading, parking and turning of vehicles associated with the construction of the development;
- details of areas to be used for the storage of plant and materials associated with the development;
- details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate);
- contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details);
- details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works;
- details of any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage;
- measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).
- risk assessment of construction activities potentially damaging to biodiversity.
- reasonable Avoidance Method Statement for reptiles.
- details relating to an updated Badger site walkover.



- identification of "biodiversity protection zones".
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to biodiversity during construction (may be provided as a set of method statements).
- the location and timing of sensitive works to avoid harm to biodiversity features.
- the times during construction when specialist ecologists need to be present on site to oversee works.
- the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties.

The 'Enabling Works' referred to above shall comprise the following:

- (a) site investigations or surveys.
- (b) ecological preparation works.
- (c) the provision of security fencing, hoarding and sales signage.
- (d) the clearance of the Site.
- (e) the provision of any temporary site point of access for construction traffic.
- (f) provision of temporary Welfare & Accommodation; and
- (g) temporary builders supply (electricity, water, data etc).

No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no noisy work (defined as not involving any machinery/plant) on Sunday or Bank/Public Holidays.

Reason: In the interests of the safety/amenity of nearby residents & occupiers of any nearby noise sensitive premises, the safety & general amenities of the area, biodiversity (particularly bats) and in the interests of highway safety in accordance with policies D DM1, ENV DM5, QE SP1, QE DM1, QE DM2, QE DM3 and T SP1 of the Arun Local Plan and the NPPF. This is required to be a pre-commencement condition because it is necessary to have the construction site set-up agreed prior to access by construction staff.

- 21 No development above damp-proof course (DPC) level shall take place until full details of the proposed in-curtilage secure cycle stores have been submitted to and approved in writing by the Local Planning Authority and the relevant houses shall not be occupied until the approved cycle storage sheds associated with them have been erected/provided. These cycle storage spaces shall thereafter be permanently retained and maintained.

Reason: To provide alternative travel options to the use of the car in accordance with Arun Local Plan policies T SP1 and T DM1.

- 22 Prior to occupation of any of each of the approved dwellings, the applicant or developer shall provide the dwelling with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be

retained and maintained in good working condition.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

- 23 No individual dwelling shall be first occupied until the vehicle parking and turning spaces serving that dwelling have been constructed in accordance with the approved plans. The parking spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with policy T SP1 of the Arun Local Plan and the NPPF.

- 24 Development shall not commence, other than the enabling works (specified below), until full details of the proposed foul drainage system for the development have been submitted to and approved in writing by the Local Planning Authority. This shall include details of siting, design and subsequent management/maintenance. Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

The 'Enabling Works' referred to above encompass the following:

- (a) site investigations or surveys.
- (b) ecological preparation works.
- (c) tree protection measures.
- (c) the provision of security fencing, hoarding and sales signage.
- (d) the clearance of the site.
- (e) the provision of any temporary site point of access for construction traffic.
- (f) provision of temporary Welfare & Accommodation; and
- (g) temporary building services supply (electricity, water, data, etc).

Reason: To ensure that the proposed development has a satisfactory means of disposing of foul sewerage in accordance with policies W DM1 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the foul water drainage system prior to commencing any building works.

- 25 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the NPPF.

- 26 INFORMATIVE: Following approval of details showing the proposed location of all fire hydrant(s) or stored water supply (in accordance with West Sussex Fire and Rescue Service's Guidance Notes) and prior to the first occupation of any dwelling or unit forming part of the proposed new development you are advised to contact West Sussex Fire and Rescue Service (WSFRS) make them aware of all the fire hydrants for the site and their locations. They can then be operated and tested, their location marked up locally and plotted on the water management system and mapping. This information is then available to all fire crews attending the site, essential for locating the nearest fire hydrants available in the vicinity of a fire without delay.

Without this information WSFRS would not be aware of any fire hydrants available on the site and lead to valuable time being spent looking for a water supply to keep the fire appliance supplied with water. Without a supply of water people's lives and properties could be put at undue risk in the event of a fire. Fire hydrant information is to be sent to either the Planning Officer or directly to the Water and Access Department, WSFRS on the details given below:  
Frs.waterandaccess@westsussex.gov.uk

- 27      INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0345 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

<b>BACKGROUND PAPERS</b>
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[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**WA/67/23/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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PLANNING APPLICATION REPORT

REF NO: BN/134/23/RES

LOCATION: Nuthatch  
Wandleys Lane  
Fontwell  
PO20 3SE

PROPOSAL: Approval of reserved matters following outline consent BN/144/22/OUT (as varied by BN/65/23/PL) for the erection of 4 No. residential units with associated car parking and landscaping with new access to be provided via Wandleys Lane. This application is in CIL Zone 3 and is CIL Liable as new dwellings.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION This application seeks approval for the reserved matters of appearance, landscaping, layout and scale following an earlier outline permission (BN/144/22/OUT) that established the principle of four dwellings on this site, together with approval of the means of access. The outline permission was subsequently amended by an application under Section 73 of the Town and Country Planning Act 1990 to vary conditions.

The proposal is for four (4 bedroom) detached houses, all two storeys with some single storey elements (garages). Roofs are pitched and gabled or hipped and all have chimneys. Each house will have generous front & rear gardens, a double garage and driveway space to accommodate at least 2 vehicles. The garages provide cycle storage. The layout shows 1 shared visitor space, turning facilities and landscaping. The layout has been amended since submission to (a) reduce the extent of hardstanding/increase the amount of soft green areas and (b) rotate plot 1 slightly anti-clockwise, to improve the relationship with plot 2 adjacent.

SITE AREA 0.5 hectares.

RESIDENTIAL DEVELOPMENT DENSITY 10 dwellings per hectare.

TOPOGRAPHY Predominantly flat.

TREES Two category C trees (Common Hazel & Hawthorn) would be removed to provide the access. The site is a field and all trees are to the boundaries so no works are required to these.

BOUNDARY TREATMENT The eastern boundary is part hedge and part hedgerow with trees. The hedging is around 1.5m high but the trees are much taller. To the south is a thin treeline, beyond which is a track and field of the neighbouring property Studlands. To the west is a tree line beyond which is the same access track

SITE CHARACTERISTICS	associated with Studlands. To the north is Wandleys Lane, demarcated by a post and wire fence and further trees.
CHARACTER OF LOCALITY	The site comprises undeveloped grassland. There is existing access from the property Nuthatch.  The site lies to the southeast of Wandleys Lane. The wider area comprises a mixture of residential to the southwest in the heart of Fontwell and agricultural, industrial, equestrian and caravan sites to the northwest, northeast and south of the site.  Dwellings immediately northeast are mainly one, and one and half storey, detached dwellings and outbuildings with white/pink render for the walls and tiled pitched roofs. Dwellings in Fontwell are typically one or two storeys detached and semi-detached with red brick or rendered walls and dark coloured brick tiled hipped or gable pitched roofs. Many dwellings have chimneys, and some have porches of matching materials. Plots are typically narrow with front parking spaces and rear gardens.

<b>RELEVANT SITE HISTORY</b>
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BN/65/23/PL	Variation of condition following BN/144/22/OUT relating to Condition No. 3 - approved plans.	ApproveConditionally 06-07-23
BN/40/23/HH	Two storey side extension and porch, first floor extension to existing house and detached garage	ApproveConditionally 12-05-23
BN/144/22/OUT	Outline application with all matters reserved (except access) for the erection of 4 No. residential units with associated car parking and landscaping with new access to be provided via Wandleys Lane. This application is a Departure from the Development Plan.	ApproveConditionally 20-03-23

The site benefits from extant outline permission (BN/144/22/OUT) for 4 dwellings amended under Section 73 by BN/65/23/PL, with reference to the plans listed in condition 3. The adjacent dwelling has since had an application approved for extensions. These have yet to be constructed but the permission is valid until 12/05/2026. This would allow for a two-storey extension on the southwestern flank of the dwelling which would include two first floor bathroom windows facing the application site. The decision does not include any conditions requiring these windows to be obscure glazed.

<b>REPRESENTATIONS</b>
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Barnham & Eastergate Parish Council object to the inclusion of the Juliette balcony on the rear elevation of plot 1 as this is contrary to the Arun Design Guide SPD. At its shortest point the distance to the neighbouring boundary is only 8m and not the 10.5m stated in the Design Guide. The Parish request

clarification on whether the driveways are permeable or not.

No other third party comments have been received.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Privacy is considered in the conclusions section however it should be noted that:

- The Juliette balcony window is at least 12m in a straight line from the boundary of the end of plot 1's garden with plot 2's garden.
- There is 9m from the window to the boundary with plot 2's garden at a 45-degree angle.
- There is also 9m from the window to the boundary with Nuthatch's garden at a 45-degree angle.
- The 10.5m requirement in the Design Guide only applies to the length of rear gardens and there is no conflict with this.
- Oblique angle views from windows will often allow for some degree of overlooking but this is an expected situation typical of all houses that are side by side.

The applicant has confirmed by email that the driveways will be permeable.

<b>CONSULTATIONS</b>
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**CONSULTATION RESPONSES RECEIVED:**

NATURAL ENGLAND - No comments.

SOUTH DOWNS NATIONAL PARK AUTHORITY - The proposal is unlikely to have a significant visual impact upon the setting of the National Park.

SOUTHERN WATER - No objection.

WSCC HIGHWAYS - No objection and recommend no conditions.

WSCC FIRE & RESCUE - Request a fire hydrant condition.

ADC ECOLOGY - States the following:

- The site is in the Singleton and Cocking Tunnels SAC buffer area so an Appropriate Assessment will be required.
- Conditions 9, 10, 11, 12, 14 and 15 of BN/144/22/OUT relate to biodiversity & ecology and require further details to be provided.
- The planting plans include a range of native species that will benefit nature.
- Retention of semi-improved grassland is advised where applicable it would be ecologically better to retain this habitat instead of removing and sowing native species grassland; and
- Site plans show a significant amount of hard landscaping. This should be reviewed to maximise the soft landscaping achievable.

ADC ENVIRONMENTAL HEALTH - Request conditions relating to contamination, construction hours and lighting.

**COMMENTS ON CONSULTATION RESPONSES:**

Comments noted, except as discussed below:

ADC ECOLOGY - The layout has been reviewed to maximise the amount of soft landscaping/reduce the amount of hard surfacing.

ADC ENVIRONMENTAL HEALTH - The requested conditions have been included on the outline permission and will remain in force. There is no need to reimpose these on approval of the Reserved Matters.

## POLICY CONTEXT

Designations applicable to site:

- Outside the Built-Up Area Boundary.
- Area of Advert Special Control.
- Water Source Protection Zones 1C/2C.
- Sharp Sand and Gravel Minerals Safeguarding Area.
- Designated Biodiversity Corridor (Wandleys Lane).
- Current/Future Flood Zone 1.
- No known surface water flood risk.
- High groundwater flood risk.
- CIL Zone 3.
- Lidsey Treatment Catchment Area.
- Existing Public Sewer on Wandleys Lane; and
- Within the Singleton & Cocking Tunnels Special Area of Conservation (SAC) 12km buffer area.

## DEVELOPMENT PLAN POLICIES

### [Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management

[Barnham & Eastergate Neighbourhood Plan 2019](#) Quality of design

### [POLICY ES5](#)

Barnham & Eastergate Neighbourhood Plan 2019 Trees and Hedgerows

### [POLICY ES10](#)

Barnham & Eastergate Neighbourhood Plan 2019 Green Infrastructure and Ecosystem Services

### [POLICY ES15](#)

Barnham & Eastergate Neighbourhood Plan 2019 Singleton and Cocking Tunnels SAC

### [POLICY ES17](#)

Barnham & Eastergate Neighbourhood Plan 2019 Parking and new development

### [POLICY GA4](#)



Barnham & Eastergate Neighbourhood Plan 2019 Outdoor space  
POLICY H5

Barnham & Eastergate Neighbourhood Plan 2019 Attention to detail  
POLICY H6

#### PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPPDG	National Design Guide

#### SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

#### POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031 (ALP), West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The relevant policies of the Barnham and Eastergate Neighbourhood Development Plan (BENDP) are referred to in this report.

#### DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal complies with relevant Development Plan policies in that it would result in a development of an appropriate scale, layout and appearance which is not harmful to the character & appearance of the area, the existing trees or the amenities of existing residents.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

#### OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

#### CONCLUSIONS

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The principle of the development of the site for four dwellings and associated access has already been established by BN/144/22/OUT. The local planning authority can now only consider the outstanding reserved matters of layout, appearance, landscaping, and scale. It is only appropriate to consider development plan policy and material considerations in respect of these reserved matters. Matters relating to flood risk, countryside location, highway safety, and foul drainage (the principle of 4 new dwellings connecting to the network), were all determined at the outline stage and covered by any relevant conditions on the outline permission and, therefore, do not fall to be assessed under this reserved matters submission.

#### COMPLIANCE WITH THE OUTLINE PERMISSION:

It has been established by case law that applications for the approval of reserved matters must be in the ambit of the outline planning permission and must be in accordance with conditions annexed to the outline permission. Certain conditions imposed by the outline (amended by BN/65/23/PL) set parameters for the nature and form of the Reserved Matters submission and these are analysed below. When determining whether reserved matters fall in the ambit of an outline permission the courts have allowed a little freedom of interpretation with the usual test being whether any changes make a material difference to the essence of what was approved.

Condition 3 states development shall be carried out in accordance with plans/document approved by the outline (the Location Plan, Ecological Appraisal, Arboricultural Impact Assessment & Method Statement and Transport Statement). There was then a separate condition (see below) that required the submission of a further Arboricultural report, however, in all other cases the reserved matters scheme is in accordance with these outline documents.

Condition 5 requires the reserved matters include (a) a plan showing the location and quantum of vehicle and cycle parking spaces that serves each of the dwellings; and (b) an Arboricultural Impact Assessment and Method Statement. The reserved matters submission achieves both requirements.

#### LAYOUT, APPEARANCE AND SCALE:

ALP policies D DM1 and D SP1 are relevant in respect of design and character. BENDP policy ES5 requires new residential development is of high-quality design and integrates with the local landscape and built environment. Policy H6 requires that dwelling designs include provision for bin storage, cycle storage and meter boxes. The Arun Design Guide (ADG) is a material consideration in the determination of this application.

The layout is appropriate to the size & shape of the site and ensures one of the four dwellings' fronts onto Wandleys Lane, respecting the building line of Nuthatch. The layout has been refined during the determination to increase the amount of soft landscaping at the expense of hard surfacing. The layout respects trees and provides a spacious development which respects local character. The layout is very similar to that shown indicatively at outline stage which showed 4 large, detached dwellings in an inverted L shaped arrangement.

Nuthatch is a bungalow as is the dwelling adjacent to it and a development of 3 dwellings a short distance to the north-east. There are two storey dwellings elsewhere along Wandleys Lane and it is material that Nuthatch has recently been allowed to add a first floor. Two-storey dwellings would reflect both existing and planned developments on Wandleys Lane.

The Arun Design Guide (ADG) suggests a density of 5-15 dwellings per hectare (dph) in rural locations and the site density of 10 is appropriate. Part Q of the ADG discusses rural development and requires that development is simple, unobtrusive, traditional and respects rural character. There should be an emphasis on landscape integration and the avoidance of overly detailed buildings.

The dwelling designs are in accordance with the ADG as they are simple designs which include chimneys and other traditional/rural design elements. The designs use appropriate materials for the location (brick, timber & tiles). The plans show rear garden boundaries of hedging and indicate other boundaries will be formed by brick walls and picket style fencing. A condition will be required in respect of the latter as they are not shown on the landscaping plan. All of these treatments are appropriate in a rural area.

Matters of layout, appearance and scale are all appropriate for the characteristics of the site and the character/appearance of the surrounding area. The proposal is in accordance with the relevant policies.

#### LANDSCAPING & TREES:

ALP policy D DM1 requires developments to incorporate new tree planting and to improve upon character through landscaping. Policy ENV DM4 states TPO protected trees, those in ancient woodland, in a Conservation Area or trees that contribute to local amenity should not be damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. BENDP policy ES10 states the loss of trees contributing to amenity will only be sanctioned where the benefits outweigh the loss. Policy H4 requires that new development integrate carefully with the surrounding natural landscape.

The application is accompanied by soft landscaping master and detailed plans. These show rear gardens will be bordered by new native hedging and existing site boundaries will be enhanced with new native hedging & trees. The green areas of the site will be planted with grass, wildflowers, and shrubs. In total, six new native feature trees and nine new native garden trees will be planted. The schemes requires the loss of only two trees. The landscaping scheme is comprehensive and varied.

The application is accompanied by an Arboricultural Impact Assessment & Method Statement which sets out measures to protect trees and by details of hard landscape treatments. The submission has not attracted any comments from the councils Landscape or Trees officers, but it is material that the trees to be removed are to facilitate the agreed access. The scheme complies with the relevant policies.

#### OTHER MATTERS:

The reserved matters of scale, layout, appearance, and landscaping have been assessed above. There are some other issues to consider which relate to the detail of the scheme, but which do not fall under the above headings.

#### (A) Residential Amenity & Space Standards:

ALP policies D DM1, D DM2 and QE SP1 are relevant as is BENDP policy H5. The ADG sets out guidance on interface distances between houses:

- Back-to-back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/ front to side: min. 14m between habitable rooms and side gable of adjacent property; and
- Front to front: min. 16m between habitable rooms and site boundary to existing landscaping.

All plot-to-plot relationships meet the standards except between plot 4's front and plot 2's flank, which is just 10m against a 14m guidance. There is, however, no material loss of privacy as the only first floor window in plot 2's flank is a bathroom and a condition can be applied to require obscure glazing.

There was a concern raised during the determination with potential views from plot 1's rear main bedroom window (which shows a Juliette balcony). This window would allow views of plot 2's garden but the applicant has resolved this by slightly rotating plot 1. The window will still allow oblique views of the neighbour's garden but not to a degree that would be materially harmful. The Juliette balcony nature of the window is not material - a person can lean out of a window whether it has a balustrade or not.

The ADG Includes guidance on garden sizes as follows:

- Private Rear Garden: min. 10.5m depth.
- Private Front Garden: min. 2m depth.
- Private Amenity Space for flats: at least 3sqm of useable space; and
- Communal Shared Spaces for flats: minimum 40sqm plus 10sqm for each unit if not provided as balcony/patio/terrace.

All four houses have sufficiently sized front gardens and generous private rear gardens. As per ALP policy D DM2 it is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard or NDSS) to determine if the buildings will be suitable for future residential occupiers. The floorplans have been cross referenced with the NDSS and the gross internal floor areas of the houses easily meet the standards.

(B) Parking, Roads, and Public Footpaths:

ALP policy T SP1 and BENDP policy GA4 are relevant as is the Arun Parking Standards SPD.

The parking requirement according to the SPD is 3 allocated spaces per dwelling with 1 additional shared visitor space. The scheme complies with these requirements as each house is provided with a double garage plus spaces in front of the garage, together with one shared visitor space. It is positive that all private spaces are appropriately wide to allow for wheelchair use. WSCC Highways raise no objections and so the proposal has to be judged in accordance with the relevant policies.

(C) Waste Management:

ALP policy WM DM1 requires that residential development is designed to ensure that kerbside collection is possible for municipal waste vehicles. The layout drawing shows a turning facility and WSCC Highways raise no highway safety concerns, but there is no specific information in the application as to the refuse arrangements or whether the turning area is suitable for refuse vehicles.

Nevertheless, existing refuse collections from Nuthatch are from the road and that arrangement could safely continue. Wandleys Lane is not a fast road and traffic levels are fairly light, such that there are no significant safety concerns with a refuse vehicle waiting on the road or even reversing into the site. Although waste storage facilities are not shown, in practice there is space in each of the curtilages such that this will not be an issue. A condition is not required to secure this. The development complies with ALP Policy WM DM1.

(D) Surface Water Drainage:

Drainage matters were considered at the outline permission stage and are already subject to conditions.

**(E) Climate Change:**

There was no low carbon energy condition included on the outline permission so an appropriate condition is now recommended. This will complement the electric vehicle charging condition already included at the outline stage. Jointly, these conditions demonstrate compliance with ALP policies ECC SP1 & SP2 and with QE DM3.

**(F) Ecology and Biodiversity Net Gain:**

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. BENDP policy ES15 states new development adjacent to the Biodiversity Corridors must assess the impact on the natural environment and must not give rise to significant harm to the integrity or function of the Biodiversity Corridors. The policy sets out the requirement for a 10% net gain in biodiversity through the use of the Defra approved biodiversity metric, and this should be delivered on-site.

Biodiversity was assessed at outline stage and the council's ecologist raised no objection. The outline permission (as amended) contains a number of relevant conditions. Conditions 3 and 10 require that the development be in accordance with the Preliminary Ecological Appraisal. Conditions 11, 12, 14 & 15 refer to construction environmental management, a biodiversity enhancement strategy, lighting, and a review of wildlife surveys. These require further details to be agreed at a later date. The impact on the biodiversity corridor was sanctioned with the agreement at the outline stage of the loss of the two trees to create the site access.

The council's ecologist has reviewed the reserved matters submission and raises no concerns.

**(G) Impact on the Singleton & Cocking Tunnels SAC:**

In addition to the adjacent biodiversity corridor, the site lies in the 12km buffer area of the Singleton and Cocking Tunnels Special Area of Conservation (SAC). Depending on the level of the likely impact, developments within the buffer area may require an appropriate assessment as per the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) and consultation with Natural England.

The report prepared for the determination of the outline application referred to the 12km buffer and an appropriate assessment was prepared at that time. This concluded there would be no likely significant adverse effects on the Singleton and Cocking Tunnels SAC, or bat species associated with the site and functionally linked habitats. Natural England provided further advice on this assessment and raised no concerns.

Recent case law from the High Court (2023) determined it may be necessary to apply the Habitat Regulations at each stage of a decision (such as at reserved matters stage as well as at the outline). In this application, it is clear that there are no new impacts that had not previously been accounted for (i.e. no new loss of vegetation or habitat) and that there has been no change in policy relating to the SAC. A further appropriate assessment is, therefore, considered unnecessary.

**SUMMARY:**

The principle of four dwellings on this site has already been established at the outline stage and the reserved matters details submitted in this application accord with the relevant development plan policies. It is recommended that the reserved matters be approved, subject to the following additional conditions alongside the conditions previously imposed on BN/144/22/OUT (as amended by BN/65/23/PL), which

still apply.

## HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

## DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

## CIL DETAILS

The site is in CIL Zone 3 and is liable for a CIL payment of £142,341.40 with 25% of this being allocated to the Parish Council.

## RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following approved plans:

- C9\_23\_22\_PL\_100 Site Layout Rev C.
- C9\_23\_22\_PL\_110 Floor Plans Plot 1 & 4 Rev A.
- C9\_23\_22\_PL\_111 Elevations Plot 1 & 4 Rev A.
- C9\_23\_22\_PL\_112 3D Image Plot 1 Rev A.
- C9\_23\_22\_PL\_113 3D Image Plot 4 Rev A.
- C9\_23\_22\_PL\_114 Floor Plans Plot 2 Rev A.
- C9\_23\_22\_PL\_115 Elevations Plot 2 Rev A.
- C9\_23\_22\_PL\_116 Elevations Plot 2 Rev A.
- C9\_23\_22\_PL\_117 3D Image Plot 2 Rev A.
- C9\_23\_22\_PL\_118 Floor Plans Plot 3 Rev A.
- C9\_23\_22\_PL\_119 Elevations Plot 3 Rev A.
- C9\_23\_22\_PL\_120 3D Image Plot 3 Rev A.

C9\_23\_22\_PL\_121 Plans & Elevations Garage - Plot 1 & 4.  
GS144.Nuthatch.LMP Version 3 Landscape Master Plan; and  
GS144.Nuthatch.DPP version 3 Detailed Planting Plan.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1, QE SP1 and T SP1.

- 2 All activity at the site is to be carried out in strict accordance with the Arboricultural Impact Assessment & Method Statement by Arbortrack Systems Ltd (ref jwmb/rpt2/nuthatch/AIAAMS, dated 20/12/23) which includes a Tree Protection Plan (rev C) at Appendix A.

If there is deemed to be a need for any Utility Service Route connections to bisect retained tree Root Protection Areas/Zones, then prior to their installation a Method Statement prepared by an Arboricultural Expert must be submitted that stipulates how this can be achieved without adverse impact on tree roots. Written approval and confirmation of acceptance of this Methodology must be issued before any works are commenced out on site.

Reason: To comply with BS5837:2012 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised, and they can continue to enhance the landscape and amenity of the area in accordance with Policies ENV DM4 and D DM1 of the Arun Local Plan.

- 3 The development shall include energy efficiency measures that reflect the current standards applicable at the time of submission and decentralised, renewable or low carbon energy supply systems. Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling/the building and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure a reduction in the use of energy at the site in accordance with national planning policy and policy ECC SP2 of the Arun Local Plan.

- 4 No development above damp-proof course (DPC) level shall take place unless and until details of the location of one fire hydrant has been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the developer shall at their own expense install the required fire hydrant in the approved location to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with policy INF SP1 and T SP1 of the Arun Local Plan and in accordance with The Fire & Rescue Service Act 2004.

- 5 No development above damp-proof course (DPC) level shall take place until details of all boundary walls and fences have been submitted to and approved by the Local Planning Authority and no individual dwelling shall be occupied until such walls and fences associated with that dwelling have been erected.

Reason: In the interests of amenity in accordance with policy D DM1 of the Arun Local Plan.

- 6 The approved details of the landscaping shall be carried out in the first planting and seeding season, 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 five years from the completion of 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.

Reason: In the interests of amenity and of the environment of the development in accordance with Arun Local Plan policy D DM1.

- 7 The following windows shall at all times be glazed with obscured glass and non-openable below 1.7m above finished floor level. This arrangement shall be permanently retained thereafter.

- Plot 1's south-western first floor flank window (bathroom).
- Plot 2's southern first floor flank window (bathroom); and
- Plot 3's eastern first floor flank window (bathroom).

Reason: To protect the amenities and privacy of future residential occupiers in accordance with Arun Local Plan policies D DM1 and QE SP1.

- 8 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 9 **INFORMATIVE:** Following approval of details showing the proposed location of all fire hydrant(s) or stored water supply (in accordance with West Sussex Fire and Rescue Service's Guidance Notes) and prior to the first occupation of any dwelling or unit forming part of the proposed new development you are advised to contact West Sussex Fire and Rescue Service (WSFRS) make them aware of all the fire hydrants for the site and their locations. They can then be operated and tested, their location marked up locally and plotted on the water management system and mapping. This information is then available to all fire crews attending the site, essential for locating the nearest fire hydrants available in the vicinity of a fire without delay.

Without this information WSFRS would not be aware of any fire hydrants available on the site and lead to valuable time being spent looking for a water supply to keep the fire appliance supplied with water. Without a supply of water people's lives and properties could be put at undue risk in the event of a fire. Fire hydrant information is to be sent to either the Planning Officer or directly to the Water and Access Department, WSFRS on the details given below:  
Frs.waterandaccess@westsussex.gov.uk

- 10 **INFORMATIVE:** The applicant should note that this layout has been approved without agreement by Drainage Engineers to the scheme layout and therefore if it subsequently becomes clear that the drainage conditions cannot be agreed due to the layout not providing sufficient space for drainage then a new reserved matters application (and potentially also a new outline or full application) will need to be submitted as the Local Planning Authority will not be able to agree such changes through the Non-Material Amendment process.



**BACKGROUND PAPERS**

The documents relating to this application can be viewed on the Arun District Council website [by going to https://www.arun.gov.uk/weekly-lists](https://www.arun.gov.uk/weekly-lists) and entering the application reference or directly by clicking on [this link](#).

**BN/134/23/RES - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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PLANNING APPLICATION REPORT

**REF NO:** FP/274/21/OUT

**LOCATION:** Bognor Regis Golf Club  
Downview Road  
Felpham  
PO22 8JD

**PROPOSAL:** Outline planning application with all matters reserved, except means of access, for the erection of up to 480 new homes (C3), the formation of a new means of access onto Golf Links Road, together with the creation of new surface water drainage, new landscaping and habitat creation, ground works and other infrastructure and the retention and re-purposing of the retained club house (F2). This site also lies within the parish of Yapton, affects a Public Right of Way and is a Departure from the Development Plan. This application is subject to an Environmental Statement.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above
SITE AREA	39.6 Hectares
RESIDENTIAL DEVELOPMENT DENSITY	At a maximum of 480 dwellings the density would equate to an average of 40 dwellings per hectare of different densities across the development parcels. (Green and blue space stands at 27.7 ha being an equivalent of circa 70% of the total development area.)
TOPOGRAPHY	Largely flat.
TREES	A Tree Preservation Order TPO/FP/07 covers the eastern boundary of the golf course and TPO/FP/23 which covers many of the trees within the golf course itself.
BOUNDARY TREATMENT	Various boundary treatments can be found on the site, the site is largely open to the south, west and north but to the east the residential properties whose rear gardens back onto the site have close boarded fences and hedges.
SITE CHARACTERISTICS	<p>The site is fairly representative of a typical golf course and consists of manicured greens, fairways, interspersed with avenues and clusters of trees. The club house building lies at the south eastern extremity of the site accessed via Golf Links Road.</p> <p>The golf course is bounded by a small area of farmland and the Felpham Relief Road beyond that to the north, residential development to the east, the Downsview Primary School and Felpham College to the south and LEC Airfield, Bognor Regis Railway line and agricultural land to the west.</p>

There are also a number of waterways in the vicinity notably the Lindsey Rife that defines the western boundary of the golf course. There are several public rights of way within the site boundary.

#### CHARACTER OF LOCALITY

The golf course (as well as Lec Airfield the Downsview Primary School and Felpham College) all create a large green buffer area between the residential built up area of Felpham to the east and the Bognor Regis Retail Park to the west, itself separated from the airfield by the Bognor Regis Branch railway line. The A259 Felpham Relief Road encloses the northern boundary.

#### REPRESENTATIONS

Felpham Parish Council - Strongly object to the application based on the significant flooding of Bognor Regis Golf Course as evidenced by recent events.

In relation to the proposed means of access, it is their view that it does not matter whether the land proposed to be developed is in the Local Plan or not, all this means is that the way to achieve the best solution is different. If the site had been in the local plan, the means of access would have been detailed within that plan. As with this case, if the site is not in the plan, the responsibility of WSCC Highways is still to secure the optimum means of access. The implications of not doing so would be that developers would be encouraged not to put sites for development under the local plan but to take the risk that they would be able to supply a lesser means of access to the site alone at a potentially lesser cost.

Felpham Parish Council do not accept that the changes to the traffic signal at the junction of Downview Road and the B2259 are acceptable. Although the changes are expected to deliver less queuing vehicles this is done so at the heightened risk to pedestrians and cyclists (many of which will be children accessing the two schools nearby). These traffic lights were amended a short time ago to give unfettered access all the way across them for pedestrians and cyclists on the grounds of enhanced safety. These proposals by the developer will revert the operation of these lights back to what was considered, a few years ago, as unsafe.

They also state that a crossing approximately 300m west of these lights is going to be changed to mimic the current arrangement at the Downview crossing of unfettered access all the way across the road on the grounds of enhanced safety. It would appear that WSCC Highways department are prioritising motorists, when the new Highway code and various statements from central government have a hierarchy of pedestrians and cyclists first.

It is the view of Felpham Parish Council, that because a developer does not have access to the prime traffic solution simply because it is not owned by that site, does not mean that a less than optimal and potentially more dangerous access arrangement should be simply signed off.

They conclude that the site is not suitable for housing.

Bognor Regis Town Council - Serious concerns about off-site capacity requirements and whether the transport effects of the development on the local highway network can be satisfactorily mitigated. Allowing up to 480 homes would result in an intensification of use that adversely affects the area and would result in the generation of excessive demands on the local highway network.

Sussex Ramblers Association - Object to the application because it will adversely impact the walking

environment by building across views of the golf course green space presently enjoyed from public rights of way in what is an important gap associated with Lidsey Rife between built-up areas of South Bersted and Felpham.

West Sussex Wildlife Protection - Object, the proposals include for balancing ponds which dry out in summer and are not good for wildlife year round. In winter they attract wildfowl but there will be huge numbers of dogs with new development so any winter benefit is destroyed.

Flansham Park Health Centre - The surgery would be obliged to provide medical services for the residents of the development and without significant further increase in funding and staffing would be unable to care for the current patients. They are not optimistic that they would receive the appropriate resources.

830 Letters representation, mostly objections (approximately 60 in support). Multiple objections submitted under one address count as one comment. The main points of concern raised include:

- The site is not allocated for development in the local plan.
  - The site is in a flood plain and regularly floods and should not be built on.
  - Schools dentists and doctors surgeries are over subscribed and will not cope with more houses.
  - Parking and traffic problems are already apparent in Goodwood Avenue, South Road, Wroxham Way and Downview Road especially since the development of Site 6 in peak times / during school runs.
  - Downview Road is not at all suitable as an access and is frequently gridlocked and used by children and cyclists going to school.
  - A far better access would be via the A259 to the north. Lack of land ownership does not preclude the application including this land for an access.
  - Access from the A259 would be in the best interests of the public.
  - Although Downview is subject to a 20mph speed limit the Traffic Assessment acknowledges that 15% of the speeds are in excess of the 85th percentile speed (which is 29.2 mph max). Therefore 15% of speeds are well in excess of 20mph.
  - Access should be via Charles Purley Way as per Site 6 or via the A259.
  - Drygrounds Lane is already sometimes impossible to exit.
  - The A259 junctions are already at capacity.
  - Increase in sewage and water infrastructure that already cannot cope.
  - The golf course is home to a large number of wildlife species and trees that will be lost.
  - The golf course is regularly used by locals for recreation and good for their health.
  - There are already enough houses and insufficient infrastructure to cope with more.
  - The houses will block light and views to houses that already adjoin it.
  - The golf course is a designated green space between built up areas and a valuable wildlife corridor.
  - Protected species such as badgers are on site.
  - The development would destroy the character of Felpham.
  - Increase in noise levels and pollution from the additional vehicles.
  - Application refers to fill material and banking, where will the material come from and how many lorry loads will it equate to.
  - The offer of the existing club house for the community would be a liability as it is already described as not fit for purpose.
  - The maps used in the application are inaccurate.
  - The site is an important area for wild birds, new householders with cats will have a devastating effect on these.
- 
- Points in support include the need for more affordable houses here as most houses are upwards of £500,000
  - The golf course club house is past its life span and the development would add essential housing.

- The development will provide much needed housing plus a community facility in Lidsey Green.
- The relocation of the golf club will secure the long term future of it and provide much needed housing.
- The golf course has poor drainage and needs to be relocated.

#### COMMENTS ON REPRESENTATIONS RECEIVED:

The Parish Council and third party comments are noted and will be addressed in the Conclusions section, where they relate to material planning matters.

<b>CONSULTATIONS</b>
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#### CONSULTATION RESPONSES RECEIVED:

West Sussex County Council Lead Local Flood Authority.

- Object 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 National Planning Policy Framework paragraph 159, 162, or 167 of the National Planning Policy Framework, its accompanying Practice Guide or policies DM2 'Flood Risk' of the Arun Local Plan.
  - To prevent flooding in accordance with National Planning Policy Framework paragraph 167, 169 and 174 by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the suburban drainage system proposed operates as designed for the lifetime of the development. The Site fails to adequately address the sequential test in relation to Surface Water Flood Risk. The National Planning Policy Framework Practice guide states in paragraph 028 'These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'.
  - The absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications.

Environment Agency

- Updated comments are awaited from the Environment Agency (EA). However, it has been verbally advised by the EA that they would raise an objection to the proposed development as the extent of the flooding was significantly larger than what was shown by the modelling and as such they no longer have the same level of confidence on the conclusions of the model. Therefore, the model is not an accurate reflection of what is happening within the cell based on the flood event from November 2023.

Arun Engineers (Drainage)

Following newly submitted information and the recent flooding event in November 2023 we can confirm that we support the Lead Local Flood Authority in Objecting to this application.

West Sussex County Council Highways

- Based on the revised information now submitted, the County Highway Authority (CHA) is now satisfied with the proposal from a highways point of view. As such, should the local planning authority be minded to approve the planning application, the CHA recommends that it only does so subject to the following: S106 Agreement (to secure):
  1. Site access, Downview Road/Golf Links Road.
  2. Emergency access.
  3. Off-site highways works at B2259 Downview traffic signals and timing of implementation.
  4. Off-site Highways works at junction of B2259 Felpham Way with B2132 Middleton Road roundabout junction and timing of implementation.

5. Off-site highways works at junction of A259 with B2259 (Felpham Relief Road) and timing of implementation.
6. Travel Plan.
7. Travel Plan monitoring fee.
8. Bus waiting area improvements including real-time passenger information displays, including timing and method of implementation.
9. Financial contribution towards upgrading of public right of way (Public Footpaths) 153 and 154.
10. Safeguarding of land and provision of costs to deliver part of link road for Bognor Regis Enterprise Zone within that land.
11. Provision of Downview Road speed and PIA monitoring data plus triggers for provision of both plus, if required, submission of measures such as (but not limited to) tactile and corduroy paving, speed tables/humps, crossing points and other measures as might be agreed, should issues be shown to have arisen post-part of the development being constructed and in use, if demonstrated by the speed and AIP data collected.

Also required will be the imposition of planning conditions as set out in their response.

#### West Sussex County Council Highways - Public Rights of Way

- No objection based on the application which proposes to upgrade public right of way FP153 to permit cycle use and provision of permissive footpaths on site.

#### West Sussex County Council - Education Services.

- The proposed development should be expected to contribute towards the new secondary school in order to mitigate its impacts for secondary education, as identified in the Local Plan, because the local existing secondary schools are not able to accommodate the new pupils. The existing secondary school provision is unable to expand, and the lack of an allocated or secured site for a new secondary school, means that this new education facility cannot be relied on in the short term.
- Until such time that a new secondary school to meet Arun requirements in accordance with the Council's commitments is built and open to pupils, transport costs are required to mitigate the additional costs to transport pupils from Arun District, who were unsuccessful in securing a place at one of their preferred schools or catchment school, to access education places at an alternative secondary school within West Sussex. West Sussex County Council will seek a contribution from proposed developments towards funding the provision of home to school transport in accordance with the West Sussex home to school transport policy. This contribution seeks to cover the cost of providing new or additional transport, based upon a calculation of the number of pupils generated by the development that require secondary school places before a new secondary school in Arun is delivered. The costs will be calculated on a case-by-case basis but will be based on occupancy rates for secondary school aged children moving into the development. These may involve journeys to schools outside the District.
- Consequently, the County Council as lead education authority, objects to the planning application listed above for the reasons set out above.

#### Place Services (providing ecological advice on behalf of Arun Council).

- No objection subject to securing biodiversity mitigation and enhancement measures.

#### Council's Arboriculturalist.

- No objection to the outline proposals on arboricultural grounds but cautions against approving any parameter plan or tree retention plan until they have concluded their own amenity assessment of trees across the site. Note - subsequent to these comments being made a Tree Preservation Order was made on a large number of trees within the golf course.

#### Arun District Council Leisure and Greenspace

- No objection subject to continued consultation through the development proposals. A landscape led development in this location is advised to blend the proposals into the character of this local area.

West Sussex County Council Waste and Minerals

- The application does not meet the criteria for consultation and therefore no comments are made.

National Highways

No objection subject to the development making a financial contribution toward A27 works in accordance with the adopted Arun Local Plan.

Southern Water

- No objection subject to the imposition of conditions relating to details of the means of foul and surface water disposal and phasing to ensure that development aligns with the delivery by Southern Water of any sewerage network reinforcement that is required.

Sussex Police

- No comments to make from a crime prevention perspective.

Arun Council Economic Regeneration

- No objection on the basis that the facilities are being re-provided elsewhere and also that it assists access to further employment land. Request that an Employment and Skills Plan is developed and implemented and local supply chains are used wherever possible.

Sport England

- The site is not considered to form part of, or constitute a playing field as defined The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595), therefore Sport England has considered this a non-statutory consultation.
- The application proposes the relocation of the golf course to facilitate development and is related to another planning application for the laying out of a new golf course on land south of Grevatts Lane ref: M/16/22/PL. Having consulted with England Golf, Sport England is satisfied that subject to that application being granted, and the new golf course being delivered prior to the loss of the existing course, that paragraph 99 of the NPPF would be met. Sport England would recommend that this phasing should be secured by condition or through a S.106 obligation.

Archaeological Advisor

- No objection subject to the imposition of a suitably worded standard condition to secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation.

West Sussex Fire and Rescue

- No objection subject to the imposition of planning condition to secure the provision of additional fire hydrants.

Natural England

- The proposal will not have significant adverse effects on statutory protected nature conservation sites or landscapes therefore no objection is raised.

Environmental Health

- No objection subject to the applicant following the Air Quality & Emissions Mitigation Guidance for Sussex, provision of electric charging points, imposition of planning conditions to ensure that a phase 1 preliminary risk assessment scheme is carried out, internal and external noise levels are demonstrated, details of external lighting and a construction method statement is provided.

Housing Strategy and Enabling Manager



- No objection to the affordable housing mix as set out in the Design and Access Statement. Note that a number of the 2 bed dwellings are proposed as maisonettes and would caution against this figure being overly high. The overwhelming need is for 2 bed houses. Anticipate that an Affordable Housing Plan setting out the precise number, size, type and location of affordable dwellings be included for agreement with the reserved matters application. All of the necessary affordable housing requirements would need to be included in a S106 planning obligation not secured by planning condition.

Chichester District Council Ecology

- No objection in principle subject to continuing ongoing surveys being submitted, retention of hedgerows and woodlands, protection of the Lindsey Rife, restrictions on lighting and biodiversity enhancement.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted

### POLICY CONTEXT

Designation applicable to site:

Outside Built-up Area Boundary

Countryside

Designated gap between settlement

Flood Zone 3 (western and northern parts of the site)

Risk of flooding from the sea (majority of site)

## DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

AHSP2	AH SP2 Affordable Housing
CSP1	C SP1 Countryside
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ENVDM3	ENV DM3 Biodiversity Opportunity Areas
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
ECCSP1	ECC SP1 Adapting to Climate Change
HWBSP1	HWB SP1 Health and Wellbeing
HERSP1	HER SP1 The Historic Environment
GISP1	GI SP1 Green Infrastructure and Development
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
OSRSP1	OSR SP1 Allotments
TDM1	T DM1 Sustainable Travel and Public Rights of Way

TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WSP1	W SP1 Water

<a href="#">Felpham Neighbourhood Plan 2019-31 Policy ESD1</a>	Quality of Design
Felpham Neighbourhood Plan 2019-31 Policy ESD5	Surface Water Management
Felpham Neighbourhood Plan 2019-31 Policy ESD9	Protection and Enhancement of Wildlife or Ecological Networks.
Felpham Neighbourhood Plan 2019-31 Policy GA1	Promoting Sustainable Movement
Felpham Neighbourhood Plan 2019-31 Policy GA4	Parking in New Residential Development
Felpham Neighbourhood Plan 2019-31 Policy CLW2	Leisure Facilities
Yapton Neighbourhood Development Plan 2011-2031 Policy E3	Protection of natural habitats
Yapton Neighbourhood Development Plan 2011-2031 Policy E4	Minimising the environmental impact of development
Yapton Neighbourhood Development Plan 2011-2031 Policy E5	Retention and enhancement of biodiversity
Yapton Neighbourhood Development Plan 2011-2031 Policy E6	Green infrastructure and development
Yapton Neighbourhood Development Plan 2011-2031 Policy E11	Minimising the impact of flooding from development

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
PPS1	Delivering Sustainable Development
PPS25	Development and Flood Risk

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
SPD13	Arun District Design Guide (SPD) January 2021

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal conflicts with relevant Development Plan policies in that the proposals are for residential development within an area at risk of flooding, outside the built up boundary, within the open countryside, within a strategic gap between settlements and on an area used for outdoor sport and recreation. This conflict cannot be outweighed by the benefits that are proposed by the scheme in the form of housing, which includes affordable housing.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

#### **OTHER MATERIAL CONSIDERATIONS**

Material considerations include the benefits from providing housing set against the current shortfall. Reference is also made in the application to the provision of publicly accessible areas of informal open space and habitat creation and the relocation of the existing golf course as being significant benefits of the proposed development.

#### **CONCLUSIONS**

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 (ALP), the Felpham Neighbourhood Development Plan 2 was made in 2021 (FNDP2), the Yapton Neighbourhood Development Plan 2 made in November 2023 (YNDP2) and the West Sussex Waste and Minerals Plans.

Having regard to Policy SD SP2 of the adopted Arun Local Plan, the site is located outside of the Built-up Boundary (within which development should be focused) and is defined as being in the countryside under the provisions of Policy C SP1 of the Arun Local Plan, where development will only be permitted for a defined list of countryside uses. The site is also located within an identified Settlement Gap with the Lindsey Rife falling within the site which is designated as a Biodiversity Opportunity Area and a Local Green Space.

The majority of the southern part of the site lies within the Felpham Neighbourhood Plan Area. Policy CW2 states that existing recreational space, including school playing fields and land used for outdoor sport and recreation should not be built on, except for buildings which would enhance sporting or recreational activities on the land.

Policy CLW2 of the Felpham Neighbourhood Development Plan (FNDP) relates to Leisure Facilities and states that existing recreational space, including school playing fields and land used for outdoor sport and recreation should not be built on, except for buildings which would enhance sporting or recreational activities on the land.

The northern portion of the site lies within the Parish of Yapton and as such falls within the Yapton Neighbourhood Plan Area. The parameter plans which accompany the application show a parcel of residential development within the area of the site which falls within Yapton. Therefore, the proposals by virtue of their location would fall outside of the built up area boundary as defined by policy BB1 of the Yapton Neighbourhood Development Plan (YNDP).

The provisions of Policy SD SP2, Policy C SP1 of the Arun Local Plan, Policy CLW2 of the FNDP and Policy BB1 of the YNDP preclude residential development on the site. Therefore, the principle of development is contrary to the development plan.

In January 2024, the Council published its Authority Monitoring Report (AMR) which identified a 5 year housing land supply of 4.16 years. Paragraphs 10 and 11 of the National Planning Policy Framework (NPPF) confirm that at the heart of the NPPF is the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to-date development plan without delay.

Alternatively, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In December 2023 the NPPF was revised and footnote 8 to Paragraph 11 was amended to state that for applications involving the provision of housing, this would include situations where:

- (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or
- (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

Footnote 7 states that the policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

The application site is located within Flood Zone 3 and as such is an area at risk of flooding and part of the site (the Lindsey Rife) is a designated Green Space. Therefore, for the reasons set out below, there are harmful impacts which would significantly and demonstrably outweigh any benefits associated with the proposal.

#### SUSTAINABLE DEVELOPMENT:

Policy SD SP1 of the Arun Local Plan (ALP) states that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy GA1 of the Felpham Neighbourhood Development Plan (FNDP) seeks to ensure that development proposals which increase travel demand will be expected, amongst other things, to be located in places accessible to public and community transport or can improve the accessibility of the site to public and community transport by contributing to

the provision of enhanced services.

The location of the site and the red line area dictate that vehicular access is only available to Golf Links Avenue. Access to the north, east and south is constrained by the A259, the railway line and the school respectively. The site is effectively landlocked for vehicles but for the proposed access via Golf Links Avenue. Existing Public Rights of way would enable pedestrian access to the north under the A259 and to the south west and north west over the railway. However, none of these footpaths allow any reasonable access to any local shops or services, the nearest of which by public footpath is some distance away (for example Sainsbury to the south on Shripney Road).

There are bus stops in Wroxham Way (270 metres from the site) and Felpham Way (some 400 metres from the proposed access point), residents at the centre of the new development would have to walk 400 metres to the main entrance and then a further 300 metres to reach the nearest bus stop, a distance of some 700 metres.

The nearest local shop is Wood Hill Way Post Office and Convenience Store (1.2km) and the nearest Tesco Express located 1.7km from the site. Other facilities are further away. It is not realistic to expect that residents would walk or cycle such distances on a regular basis to access shops and services. The design and access statement considers that all dwellings within the scheme will sit within a 20 minute round walking distance from key facilities and thus comply with the concept of a 20-minute neighbourhood. But as noted above, the nearest Tesco express at Felpham Way is a 40 minute round trip by foot.

Taking the above factors into account it is highly likely that residents of the proposed estate would be heavily reliant on private motor vehicles for trips out of the development to access local shops and services. Therefore, despite the proximity of the development to the built up boundary, the site is not considered to be in a sustainable location contrary to the objectives set out in paragraph 8 of the National Planning policy Framework and contrary to policy SD SP1 of the Arun Local Plan and policy GA1 of the Felpham Neighbourhood Development Plan.

#### LOSS OF THE GOLF COURSE

The existing Golf course is an existing outdoor recreational facility. Policy OSR DM1 of the Arun Local Plan seeks to protect these facilities and states that they should not be built on or redeveloped for other uses unless:

- a. a robust and up-to-date assessment has been undertaken which has clearly shown the facilities to be surplus to requirements; or
  - b. the loss resulting from the proposed development would be replaced by equivalent or better provision of open space, outdoor and indoor sport, community arts and cultural facilities, which will be assessed in terms of quantity and quality and suitability of location;
- or
- c. the development is for alternative open space, sports, community, arts or cultural provision, the needs for which clearly outweigh the loss.

No assessment has been undertaken to demonstrate that the facilities are surplus to requirement. However, the proposed redevelopment of the current club is linked to the planning application for a replacement a golf course which is the subject of planning application M/16/22/PL on land south of Grevatts Lane / A259. This application remains non-determined and would need to be considered alongside this application.

A position statement included within the application for residential development on the existing golf course states that the current site limitations and facilities of the golf course are restricting golf to the

more traditional forms (four / five hour round) and the facilities are dated. Other limitations are stated as being drainage issues, health and safety with golf balls hitting houses, the existing building being old and outdated and other improvements that are required to modernise the clubhouse heating and irrigation systems. No details are given as to whether these issues could in fact be resolved at the current course, instead the report states that a new course would solve them.

In the absence of an alternative golf facility, or a formal mechanism to deliver one on an acceptable alternative site, the loss of the existing course would be contrary to Policy OSR DM1 of the Arun Local Plan.

#### ACCESS, TRAFFIC, ROAD SAFETY & PARKING:

The application is in outline form with all matters reserved except access. The main proposed vehicular access is shown as utilising the existing eastern golf club access with a new table top ramp provided at the junction. The access shows a 6 metre carriageway with a 3 metre shared footway / cycleway on the eastern side and a 2 metre footway on the western side. A second, emergency, site access is proposed to use the current western car park access to the golf club and this would also provide for pedestrians and cyclists. Both access points are some 27 metres apart.

It is identified within the submission that parking will be based on the Arun Parking Standards 2020 and will include for 20% of visitor parking. All properties will have an EV charge point and non residential uses will include for 50% electric vehicle charging points.

The application also refers to the strategic employment site 4 - LEC airfield and the requirement under policy EMP DM2 (m) for Site 4 that states any proposals relating to the airfield and adjoining land must ensure that measures for the delivery of a link road between the A259 Felpham Way and the Bognor Regis Relief Road are addressed. Land is identified within the submission as being safeguarded in order to facilitate the delivery of this link in the future.

The applicant identifies that should permission be granted a Section 106 Agreement would include obligations to make this land available and finance the construction of the part of the road located within the application site. For clarity, the applicant states that it will be the responsibility of other parties to secure planning permission for the road.

Arun Local Plan policy T SP1 seeks to ensure development provides safe access to the highway network and contributes to highway improvements & promotes sustainable transport. It states schemes must explain how development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; and (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter.

Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities, and contribute towards provision of a joined-up cycle network and Public Rights of Way network. Para 114 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users".

National Highways have been consulted and raised no objection subject to the development making a financial contribution towards A27 junction enhancements identified through the Arun Local Plan.

WSCC Highways sought additional information from the applicant during the course of the application based on the traffic data provided, in particular, for the Downview Road signalised junction; the B2259/Flansham Lane/Hoe Lane junction; and the B2259/Middleton Road junction. The County Highway

Authority had raised concerns with the impact that the additional development traffic would have on these junctions. Following these comments the applicant provided additional information to address these concerns.

Nearly all of the objections received from the public raised strong concerns over the proposed access and in particular the current levels of traffic congestion at this location due to the school and the potential for increased conflict with school pedestrians, cyclists and parents dropping children due to the additional vehicles associated with the construction phase and post development phase. Residents also questioned why the development could not be served by the A259 to the north.

In view of the concerns raised by residents over highway matters, GTA Civils and Transport was appointed by Arun District Council to undertake an independent review of the transport impacts associated with the development. This review concluded that there were no in principle reasons why site access should be from the Relief Road alone. In particular:

- The proposed means of access, as finally agreed with WSCC, would provide sufficient capacity and be safe for all road users.
- WSCC should not have concluded that the existing mixed provision on Downview Road is acceptable without further analysis of the expected traffic flows with the development in place and the volume and type of cycle movements to be provided for within the context of the requirements of LTN 1/20.
- Whilst having significant reservations about the capacity modelling carried out for the Downview signals junction, it was agreed that adequate measures have been put forward by the Applicant to mitigate the impacts of its development on the operation of the wider highway network.
- WSCC should require the Applicant to prepare a draft Construction Management Plan containing sufficient information for WSCC to come to an informed view of the impacts on Golf Links Road of heavy vehicles during site construction and their acceptability.

The GTA Civils and Transport independent review was provided to WSCC and the applicant and further information was provided to address the issues identified. It was identified by the applicant that the development would connect with and make financial contributions towards the new footway/cycleway being proposed along PRow 153. This would ensure a complete north-south connection between the A259 and the B2259.

Following further consideration of these matters by WSCC Highways it has been confirmed that no objection is raised to the proposed development. However, WSCC have stated that should the LPA be minded to approve the application, the following measures should be secured through the Section 106 agreement:

1. Site access, Downview Road/Golf Links Road.
2. Emergency access.
3. Off-site highways works at B2259 Downview traffic signals.
4. Off-site Highways works at junction of B2259 Felpham Way with B2132 Middleton Road roundabout junction.
5. Off-site highways works at junction of A259 with B2259 (Felpham Relief Road).
6. Travel Plan.
7. Travel Plan monitoring fee.
8. Bus waiting area improvements including real-time passenger information displays.
9. Financial contribution towards upgrading of PRow (Public Footpaths) 153 and 154.
10. Safeguarding of land and provision of costs to deliver part of link road for Bognor Regis Enterprise Zone within that land.
11. Provision of Downview Road speed and PIA monitoring data plus triggers for provision of both plus, if required, submission of measures such as (but not limited to) tactile and corduroy paving, speed

tables/humps, crossing points and other measures as might be agreed, should issues be shown to have arisen post-part of the development being constructed and in use, if demonstrated by the speed and AIP data collected.

Footpath 153 runs north to south and runs through the centre of the existing golf course. Heading south from the site footpath 153 passes to the east of Downsview Primary School and Felpham Community College and terminates at Drygrounds Lane to the south. Onward pedestrian connectivity is available to the B2259 Felpham Way where an existing pedestrian crossing provides connection to footpath 3047 which provides connectivity with Felpham. Therefore, pedestrian connectivity towards the schools to the south and Felpham are good. Footpath 153 heading north meets the Lindsey Rife where it connects with footpath 152 before heading north over the A259 to Flansham.

Footpath 152 heading north crosses the A259 before connecting with Sack Lane in Shripney. Footpath 152 heading south runs to the east of the Lidsey Rife and the LEC Airfield before crossing the railway line and connecting with the Southern Cross Industrial Estate. Footpath 152 is unmade and as such would not be appropriate all year round or for those with accessibility issues especially given the railway crossing.

The travel plan submitted in support of the application notes that there are proposals currently underway by WSCC to widen footpath 153 to provide a shared footway / cycleway route (between Felpham Way and Wroxham Way) which would provide the added benefit of moving cyclists off Downview Road. These WSCC proposals include the upgrade of the existing pelican crossing on Felpham Way to a Toucan Crossing to accommodate cyclists alongside pedestrians.

The application would secure the upgrade of footpath 153 within the site to a shared footway / cycleway which would enable occupants of the site to access the A259 to the north and the existing cycle route. Details of these enhancements have not been provided as part of this application but could be secured through the Section 106 legal agreement.

Therefore, as confirmed by WSCC the contributions towards cycle provision and connectivity are acceptable and the existing and future provision would provide strong links to the north and south of the site with the A259 and down into Felpham.

#### FLOOD RISK:

Policy W SP1 is relevant to flood risk and states that the Council will support development that:

- a - is appropriately located, taking account of flood risk and promotes the incorporation of appropriate mitigation measures into new development, particularly Sustainable Drainage Systems that reduces the creation and flow of surface water and improves water quality;
- b. reduces the risk to homes and places of work from flooding whilst increasing biodiversity; and
- c. delivers a range of community benefits including enhancing the quality of life and providing greater resistance to the impact of climate change.

Policy WDM2 of the Arun Local Plan requires development in areas at risk from flooding, identified on the latest Environment Agency flood risk maps and the Council's Strategic Flood Risk Assessment to only be permitted where a sequential test in accordance with the National Planning Policy Guidance has been met and a site specific flood risk assessment demonstrates that the development will be safe, including access and egress, without increasing flood risk elsewhere and reduce flood risk overall.

A flood risk assessment (dated February 2022) was provided with the application when it was submitted. The assessment identified the proposed use as more vulnerable under the flood risk vulnerability classification within the National Planning Policy Framework. The National Planning Policy Framework



states in paragraph 167 that all plans should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by applying the sequential test and then, if necessary, the exception test

As the site is located in Flood Zone 3a a sequential test was required to be undertaken. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

A sequential and exception test was undertaken at the submission stage (December 2021) to look at any alternative sites for residential development as well as the new golf course the subject of a separate planning application. The sequential test therefore, looked for alternative sites that were capable of taking the proposed development which was stated as being the residential development and the proposed new golf course. It is important to note however, that the application in front of members now is for residential development only. The sequential assessment concluded that there were no sites within the district that were capable of providing land suitable for the new residential development and the new golf course. However, the approach is flawed as will be explained in more detail below.

The applicant considered that the sequential test had been passed as no reasonable alternative sites had been identified to accommodate this residential development alongside a new golf course they moved on to the exception test. The proposed residential development is classed as 'More Vulnerable' development within Flood Zone 3a. In order to pass the exception test it must be demonstrated that:

- The development provides wider sustainability benefits to the community that outweigh the flood risk as informed by a strategic flood risk assessment; and
- A site specific flood risk assessment has demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, will where possible, reduce flood risk elsewhere.

The flood risk assessment for the site was considered to pass each element of the exception test. Identified in Part A of the flood risk assessment (para 4.3.3) the development was stated to provide wider sustainability benefits such as delivering a wide range of open market and affordable housing, monetary contributions to local infrastructure and services, open space, biodiversity net gain, economic benefits during construction etc. In Part B the flood risk assessment it was concluded that the development will be safe for its lifetime taking into account the vulnerability of the users and would not increase flood risk elsewhere. This was on the basis that the site specific hydraulic modelling showed that buildings were situated outside of the floodplain i.e. equivalent to Flood Zone 1 where the development would be considered water compatible. It is important to note that this approach was based on the conclusions of the flood modelling undertaken by the developer.

The submission concludes that flood risk (tidal, fluvial, surface water, groundwater) was low for the site, with historic flooding having been considered but the report noted that the entire site was not affected (para 5.2.1). The post development hydraulic modelling scenario was based on the inclusion of development platforms, road networks, surface water channels, flood berm and suburban drainage strategy and concluded that the development could be safe for its lifetime, had safe access and egress during times of flooding and would not increase the risk to the surrounding areas.

The Environment Agency (EA) objected to the application in March 2020 based on the fact that the submitted flood risk assessment was supported by modelling and outputs that the Environment Agency had not reviewed or approved, nor had drawings of ground levels for post development been provided. A further objection was made by the EA in August 2022 based on a lack of drawings showing the ground

levels post development as well as baseline and post development model outputs had not been provided in geographical information system format.

The applicant provided a response to the Environment Agency comments regarding flood risk on 1 November 2022. This model refined the flood risk and responded to the questions raised by the Environment Agency.

On 15 November 2022 the Environment Agency stated that the development would meet the requirements for flood risk if finished floor levels were set no lower than 300mm above ground level and evidence be provided that the post development ground levels match those included in the post development modelling.

In December 2022 the applicant provided a sequential and exception test addendum for the residential site. This document reflected updates that the Government made in August 2022 to the Flood Risk and Coastal Change national guidance. This document stated that:

"As set out in the December 2021 Test at paragraph 1.5, Site A is the only suitable site for the proposed development as it enables the relocation of the golf course. The requirement to undertake a District wide search is not appropriate for this scheme, as the only location the scheme could be located is on Site A. The December 2021 Test did assess other sites, however a wider search away from the existing golf course would be unreasonable and would not allow these two sites to be closely interlinked into one overall project."

In December 2023 the West Sussex County Council Lead Local Flood Authority stated that they had recently become aware that the site had been severely impacted by flooding. Following a review of the information they objected on the basis that the application is not in accordance with paragraphs 159, 162 or 167 of the National Planning Policy Framework, its accompanying Practice Guides or Policy DM2 'Flood Risk' of the Arun Local Plan. In addition the site had failed to adequately address the sequential test. The National Planning Policy Framework Practice Guide states in paragraph 028 that these could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such sites do not need to be owned by the applicant to be considered reasonable.

The methodology adopted by the applicant in relation to the sequential test is considered to be flawed, the sequential test for the residential application should not have been linked to a separate application for a golf course. The applicant has focused on the need to relocate the golf course but the residential element does not need to be located in an area of high risk of flooding to support and finance the relocation of a water compatible use such as the golf course. The sequential test should have been carried out so as to assess if there were reasonably available sites appropriate for the proposed residential development in areas with a lower risk of flooding, but no such assessment was undertaken.

Therefore, the proposal fails to accord with Policy W DM2 of the Arun Local Plan relating to flood risk and Policy ESD5 of the Felpham Neighbourhood Plan.

#### LAND RAISING:

The flood risk assessment refers to the need to undertake land raising to ensure residential development is, where necessary, situated on platforms to prevent flooding. Having reviewed the topographical plans for the site and the light imaging and radar (LiDAR) plans, this shows the site slopes from approximately 1m above ordnance datum (AOD) in the north to an approximate elevation of 3m AOD by the southeast boundary adjacent to Downview Road. Localised depressions exist in the site which range from 0m AOD to 1m AOD.

Within the planning statement reference is made to the site being raised for development purposes. Reference is also made to a berm being created separating the north and south of the site to ensure that the fluvial and surface water flood risk storage is maximised in the southern part of the site. The berm is stated as ranging in height from between 1.84m AOD to 1.9m AOD. The proposal also makes reference to platforms being 'raised' above the surrounding ground levels above the predicted flood level of 1.5m AOD. These raised platforms are stated as being at their lowest of 1.4m AOD with a ridge along the centre raised a further 300mm to allow for drainage. Reference is made in the flood risk assessment to finished floor levels to properties being raised a further 300mm above platform levels (para 7.1.1) which would result in the finished floor levels of the proposed dwellings being at between 1.7m and 2m above AOD in order to be above the 1 in 100 year flood event plus climate change.

It is not clear exactly how much land raising will be required, and the amount of fill that will be required (or if cut and raise is proposed), where fill for land raising will come from, how many HGV's that would equate to and where they will enter the site from and the likely impact of this on residents. Nor is it known the impact that the proposed land raising would have upon flooding impacts off site given the extent of the recent flood event on site.

#### ILLUSTRATIVE LAYOUT

As the application is in outline form with only access reserved the layout is illustrative. Development is proposed to be broadly located in the north eastern corner of the site with the southern and far western boundaries kept free of development. The remaining undeveloped areas are shown to include landscape buffers, public open space, natural play areas traditional play areas, planting, pedestrian/cycle links and SuDS, a large portion of the site will remain undeveloped running north to south along the western boundary.

The impact of the development on the surrounding area has been considered by the applicant who has sought to demonstrate that viewpoints will be created through the development and with assessment of the likely impact of development and views of the site from outside the boundaries. These viewpoint plans show that the impact of the development will largely be low / with minor adverse impact. However, it is unclear what was assessed through this document with a number of the plans referring to the development as being a 'future care home'.

An indicative density plan shows development situated predominantly in the north east of the site with a core of higher density in the middle of this approximately 160 metres north west of the existing club house. The highest densities are shown as being 90 dwellings per hectare (dph) and up to 3 storey in height. The buildings will radiate out from here to lower densities of 45-50dph (maximum 2.5 storey), then 40-44dph with development on the edge of the development between 35-39dph with heights of 2 - 2.5 storeys. A large area north west of the site will remain undeveloped as will areas along the western boundary adjacent to the rife and airfield.

Despite the size of the site, the development is on the edge of the existing settlement and would be expected to act as a transition between the existing built up area and the countryside. The proposed densities are significant and would more closely reflect the density of development expected within a town or village centre rather than in the countryside.

Of the 39.6 total site area 27.7 hectares will be retained for green and blue space with the remaining 11.9 hectares identified for development, giving an average density of 40dph. By way of comparison Felpham has densities which range from 25 to 42dph with densities to the east and south of the application site being on the lower end of this scale with single storey and low density detached properties being characteristic in this locality. The number of dwellings proposed and the densities identified are excessive and an inappropriate response for a site situated on the edge of the built up area boundary within a settlement gap.

The proposed development by virtue of its density and number of units proposed would result in significant harm to the established character of the locality and would fail to provide an appropriate transition between the existing built up area and the countryside whilst encroaching within and eroding the settlement gap.

Therefore, the proposed development could not be accommodated on site without significantly adverse harm to the established character of the site and wider locality to relevant policies contained within the development plan.

#### CONSERVATION AND HERITAGE

The Conservation Area is located approximately 750 metres from the site as are several listed buildings. Because of the combination of topography, dense vegetation, and trees around the application site as well as the distance and the built-up nature of the area within which they are located, none of them are considered sensitive to change by the proposed development. Therefore, the proposed development would not give rise to any harm to any designated heritage assets.

A heritage desk-based assessment and Geoarchaeological desk-based assessment were provided as part of the environmental statement. These conclude that there may be undesignated archaeological assets within the site and propose a staged programme of archaeological works to be secured by condition. This approach would enable the identification of any assets and a suitable mitigation strategy to be developed and is supported by the Council's archaeological advisor.

Therefore, the proposals subject to the imposition of appropriately worded conditions would be in accordance with relevant policies within the development plan.

#### AFFORDABLE HOUSING

Policy AH SP2 of the Arun Local Plan requires developments of over 11 units to provide a minimum provision of 30% affordable housing on site. The applicant has confirmed that 30% of the total development will be provided as affordable homes. These are indicatively shown as being split between:

- 1 Bedroom 24%
- 2 bedroom 47%
- 3 bedroom 22%
- 4+ bedroom 7%

The proposals deviate from the indicative mix in Policy AH AP2 which requires 1 bedroom 35 - 40%, 2 bedroom 35 - 40%, 3 bedroom 15 - 20% and 4+ bedroom 5 - 10%. As the application is in outline form no objection is raised at this stage as the policy requirement of 30% is met and the precise mix of houses could be dealt with at reserved matters stage. The affordable housing requirements would need to be secured through a Section 106 agreement.

#### ECOLOGY

Policy ENV SP1 confirms that Arun District Council will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites.

Where possible it shall also promote the creation of new areas for habitats and species. The current golf course is a man made and managed landscape but does contain grass snake, lizards, slow worms, water voles, bats, breeding birds and many other species. A preliminary ecological appraisal concluded that the proposals would result in a net gain of 10.29% for habitats, 17.43% for hedgerows and 46.9% for rivers meeting the Environment Act's 10% biodiversity net gain requirements.

The applicant has provided a significant number of documents, reports and plans relating to the likely impacts of the development on designated sites, protected species, and priority species and habitats, including the identification of appropriate mitigation measures. Natural England considers that the development will not have a significant adverse impact on statutorily protected nature conservation sites or landscapes. Arun's ecological advisor has concluded that there is no objection to be raised to the application subject to securing biodiversity mitigation and enhancement measures.

Therefore, subject to the imposition of appropriately worded conditions the ecological impacts would be acceptable.

#### PUBLIC OPEN SPACE & PLAY

Arun Local Plan policy OSR DM1 requires housing developments to provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. The Council's Supplementary Planning Document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 33,792 sqm of Public Open Space, and 5,808 sqm of Play Space for a development of this size. The indicative Land Use Parameter Plan illustrates that the site will include landscape buffers, public open space, natural play areas, traditional play areas, pedestrian and cycle lanes and SUDS such as swales and rain gardens, Growing areas are also identified on other plans.

A large proportion of the site will not be developed and as such sufficient space is available to deliver an appropriate quantum of open space. However, the Open Space SPD identifies that SUDS features or areas of the site which experience flooding cannot be considered as open space. Therefore, given the extent of recent flooding it would appear that the majority of the areas on the site set aside for open space would be unusable in a flood event bring into question the usability of the open space during the winter months.

Therefore, at this time it has not been adequately demonstrated that an appropriate amount of usable open space could be delivered onsite as required by policy OSR DM1 of the Arun Local Plan.

#### TREES

Policy ENV DM4 of the Arun Local Plan and Policy ESD9 of the Felpham Neighbourhood Development Plan state that development that damages or results in the loss of trees of arboricultural and amenity value or loss of hedgerows and/or priority habitat will not be supported unless the need for, and the benefits of the development in that location clearly outweigh the loss.

The illustrative tree removal plan provided with the application shows that 1 Category A tree would be lost, and that the total loss of category B and C trees would be 22 groups and 13 specimens equating to a loss of 2.4 hectares. Proposed new tree planting on the site would equate to 4.4 hectares and 125 new singular trees. The trees to be lost are mostly located in the area identified for the residential development. There are other trees and hedges around the site not protected by a Tree Preservation Order that are also important to the character and visual amenity of the area.

Since the application was submitted a Tree Preservation Order (TPO) has been made which covers approximately 80 trees across the site. It is unclear how many of the trees to be removed would be covered by the Tree Preservation Order because the submitted plans pre-date the TPO.

The development proposes land raising to ensure that the residential elements are placed above flood risk. No precise details of the location of the residential elements are proposed (just a broad indicative area) and no details of the precise areas of land raising are given or the likely amount of land raising required. It is clear however, that the development as proposed will result in a loss of trees within the area proposed for residential development and this in turn could be because of the land raising required

and the likely negative impact this would have on those existing trees.

As this application is only in outline with layout not agreed, it is unclear from the submission how the proposed land raising would impact upon the health and vitality of any trees intended to be retained including those that are currently protected via a Tree Preservation Order.

#### SUPPORTING INFRASTRUCTURE

Arun Local Plan Policy INF SP1 requires that development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and the existing community. Any off-site provision or financial contributions must meet the statutory tests for planning obligations required by Regulation 122 of the Community Infrastructure Regulations 2010.

The application would be liable for community infrastructure levy (CIL) of which 25% would be provided to the Parish Council to spend on their own projects. The remainder of the payments would go towards providing the infrastructure that the district needs to support existing and future development.

The affordable housing provision, WSCC Education transport contributions and Highway contributions/mitigation would need to be secured through the completion of a Section 106 agreement planning obligation. Therefore, subject to completion of a Section 106 agreement the proposals would accord with policy INF SP1 of the Arun Local Plan.

#### SUMMARY & PLANNING BALANCE

The National Planning Policy Framework is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year Housing Land Supply (currently 4.16-years), paragraph 11(d) of the National Planning Policy Framework and the application of the 'presumption' for sustainable development would normally be triggered.

However, Paragraph 11(d) of the NPPF states that where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year Housing Land Supply cannot be demonstrated), planning permission should be granted unless the application policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.

The application site falls within Flood Zone 3 and as such is at risk of flooding. Given the significant flooding event which occurred in November 2023 the Local Planning Authority are not satisfied with the conclusions of the modelling work and are concerned that the proposed ground raising would result in the displacement of water which would increase in flood risk elsewhere. Therefore, the policies contained within the NPPF would provide a clear reason for refusing the development proposed.

In addition to the above Paragraph 14 of the NPPF identifies that where the presumption under Paragraph 11(d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. Provided that the neighbourhood plan became part of the development plan five years or less before the date of the decision; and the neighbourhood plan contains policies and allocations to meet its identified housing requirement. In this case the site falls within the Neighbourhood Plan Areas for both Felpham and Yapton both of which were made less than five years ago in accordance with Paragraph 14(a).

Whilst the FNDP2 includes policies intended to meet their identified housing need in the absence of allocations the FNDP2 would not meet the requirements of Paragraph 14(b) of the NPPF. As the YNDP2 incorporates both policies and allocations and as such meets the requirements of Paragraph 14(b) of the

NPPF.

In accordance with Paragraph 14 the adverse impacts of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. As identified above the proposed residential development is sited outside of the built-up area as defined by policy BB1 of the YNDP2 at a density and scale which would result in substantial harm to the established character of the locality.

Given the strength of this policy conflicts and the weight given to those conflicts which relate to the YNDP2 (given the effect of para 14 of the NPPF) then this report concludes that the adverse impacts would clearly and demonstrably outweigh the benefits and so a refusal would be justified.

It is therefore recommended that the application be refused for the following reasons.

#### **HUMAN RIGHTS ACT**

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### **DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

#### **SECTION 106 DETAILS**

#### **CIL DETAILS**

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

#### **RECOMMENDATION**

REFUSE

1 The site is not allocated within the Arun Local Plan and falls in an area identified as at risk of

flooding (Flood Zone 3a). The application fails to adequately address the sequential test in relation to Surface Water Flood Risk and in the absence of a satisfactory sequential test, it has not been demonstrated that the proposed development is appropriate in this area contrary to policy W DM2 of the Arun Local Plan, policy ESD5 of the Felpham Neighbourhood Plan, policy E11 of the Yapton Neighbourhood Plan and the National Planning Policy Framework.

- 2 The extent of recent onsite flooding was significantly larger than that which was shown by the modelling and as such confidence in the conclusions of the model are diminished. Therefore, as the modelling is not an accurate representation of what is happening within the cell, and given the extent of land raising proposed, it has not been satisfactorily demonstrated that the proposed development would not increase flood risk elsewhere contrary to policy W DM2 of the Arun Local Plan and the National Planning Policy Framework.
- 3 The site is located outside of the built up area boundary, within the countryside, in an area identified as a Strategic Gap and identified as part of the Green Infrastructure Network. These areas seek to steer development to within the existing built up area to protect and enhance the countryside and existing Green Infrastructure assets and the connections between them which are recognised for their intrinsic character and beauty, and where applicable allow for appropriate, small scale development, which is in keeping with the rural nature of the gaps. The development proposed would not be appropriate small scale development and would be likely to alter the character of the countryside area to an unacceptable degree and as such is contrary to policies SD SP1, SD SP2, SD SP3, C SP1 and GI SP1 and of the Arun Local Plan and Policies BB1 and E6 of the Yapton Neighbourhood Plan.
- 4 The proposed development by virtue of the limited means of access and distance from nearby shops and services, would be likely to result in residents using private vehicles for the majority of day to day trips and is therefore considered to be unsustainable by reason of its location, it would therefore be contrary to policy SD SP1 of the Arun Local Plan, policy GA1 of the Felpham Neighbourhood Plan and the National Planning Policy Framework.
- 5 The proposal would result in the loss of the existing golf course with no alternative equivalent or better facility being provided elsewhere. Therefore, the release of the land currently used for outdoor sport and recreation would be in conflict with, and prejudicial to, the land use policies upon which the Local Plan is based contrary to policy OSR DM1 of the Arun Local Plan and policy CLW2 of the Felpham Neighbourhood Plan. This reason for refusal would fall away were M/16/22/PL to be approved or allowed at appeal.
- 6 The development as proposed would result in the loss of trees including those protected by a Tree Preservation Order (TPO) which are of high amenity value. There are no overriding benefits for the proposed development which would justify the loss of trees contrary to Policy ENV DM4 of the Arun Local Plan, Policy ESD9 of the Felpham Neighbourhood Development Plan or E4 of the Yapton Neighbourhood Development Plan.
- 7 In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision and is thereby contrary to the aims and objectives of the NPPF and policy AH SP2 of the Arun Local Plan.
- 8 In the absence of a signed Section 106 agreement, the development will not provide the contribution required to mitigate the additional cost of transporting to secondary school pupils to the nearest school and is thereby contrary to policy INF SP1 and the NPPF.
- 9 In the absence of a signed Section 106 agreement, the development will not provide;
  - A travel plan necessary to ensure the promotion of alternative travel options;
  - Off-site highways works at B2259 Downview traffic signals and timing of implementation;
  - Off-site Highways works at junction of B2259 Felpham Way with B2132 Middleton Road roundabout junction and timing of implementation;



- Off-site highways works at junction of A259 with B2259 (Felpham Relief Road) and timing of implementation;
- Bus waiting area improvements including real-time passenger information displays, including timing and method of implementation.
- Financial contribution towards upgrading of PRoW (Public Footpaths) 153 and 154;
- Safeguarding of land and provision of costs to deliver part of link road for Bognor Regis Enterprise Zone within that land; and
- Provision of Downview Road speed and PIA monitoring data plus triggers for provision of both plus, if required.

The development is thereby contrary to Arun Local Plan policies T SP1, T DM1 and EMP DM1 as well as the NPPF.

- 10      **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

<b>BACKGROUND PAPERS</b>
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[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**FP/274/21/OUT - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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PLANNING APPLICATION REPORT

REF NO: M/16/22/PL

LOCATION: Land South of Grevatts Lane/A259  
Climping

PROPOSAL: Laying out of an 18 hole 72 par golf course, a 9 hole golf course, practice greens and a driving range including a buggy compound; the formation of a new access onto the A259; construction of a club house with associated golf club facilities; the construction of a maintenance building and external area of hardstanding; the laying of parking, new roads and paths; new landscape planting; surface water drainage basins and water storage resevoirs; and other earth works and infrastructure. This application also lies within the parishes of Climping and Yapton, is a Departure from the Development Plan and affects a Public Right of Way. This application is subject to an Environmental Statement.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	The application seeks full planning permission for the relocation of Bognor Regis Golf Club to the site. The proposed facilities would consist of an 18 hole golf course, 9 hole course, practice green and driving range. Access is to be provided from the A259 with a new club house and parking for approximately 241 vehicles.
SITE AREA	73.67 Hectares
TOPOGRAPHY	Predominantly flat.
TREES	Tree Preservation Orders exist on site. This is dealt with within the report.
BOUNDARY TREATMENT	The site is currently characterised by 4 main field parcels separated by hedge lines and the Ryebank Rife water channels.
SITE CHARACTERISTICS	The site is largely open flat and in agricultural use.
CHARACTER OF LOCALITY	<p>The site comprises 73 hectares and is currently primarily used for arable agriculture. The southern part of the site abuts Ancton Way whose houses back onto the arable fields with their rear boundaries abutting a thick hedge line of around 35 metres in depth. The south western corner of the site sits within the settlement of Ancton and abuts Sunnymead Close. Again this boundary of the site consists of a thick hedge line which runs between the rear boundaries and the arable land.</p> <p>The remainder of the site is bounded by arable land bar the northern boundary which is adjacent to the A259 Grevatt's Lane which is the main arterial route along the coast extending from Littlehampton to Chichester. To the north east of the site is an area of industrial / business use with various commercial</p>

and haulage uses.

The woodlands adjoining the application site's western and southern boundaries are subject to Tree Preservation Orders (ref: TPO/M/2/91 and TPO/M/1/91). Public Right of Way P165 runs through the woodland that adjoins the western boundary of the site and passes between the Northern and Western field parcels.

The Ryebank Rife passes through the middle of the site and there are other drainage ditches present along the boundaries.

## REPRESENTATIONS

Middleton Parish Council - No objection

It has raised the following comments to be considered in respect of this planning application;

- 1) Exiting the golf course onto A259 - vehicles wishing to turn right out of the golf course will cross two lanes of traffic on this busy road. A review needs to be carried out with regard to a new access/exit point for the golf club or to make vehicles turn left when exiting and use the nearby roundabout.
- 2) Clarification as to the rights of Ancton Way Elmer residents with regard to the Public Right of Way.
- 3) Riparian rights/responsibilities need to be clarified in respect of ditches on the golf course, on the boundaries of the golf course and any new ditches that may be required.
- 4) Confirmation that the Elmer surface water pumping station can meet the demand that may arise from this planning application.
- 5) New fencing should be sympathetic to the surroundings.
- 6) To protect houses at the southern end of the course more planting of mature trees is required.
- 7) The Environmental Statement should indicate how the development will impact upon drainage and potential flooding in the surrounding area.
- 8) The Environmental Statement should also indicate to what extent the site will be managed within an accredited environmental management system (ISO 14001)
- 9) A condition be imposed that the golf course be classified as Leisure and if at any time the golf course does not go ahead that the land be returned to agricultural land.

Felpham Parish Council - Strongly object.

- 1) OSR DM1 loss of open space / recreation land in Bognor Regis - the current proposed site for the new course is on farming land which is readily accessible by members of the public. FPC Object as a new private course will limit access to permissible paths (which can be removed) and are to be altered from their traditional routes.
- 2) OSR DM1 loss of open space / recreation land - The proposed new golf course is on current farming land with many trees and hedgerows. This also provides habitats for numerous species wildlife. FPC Object as a golf course is a manicured grassland and does not have the same features as farmland and will thus be a loss in habitat to existing wildlife.
- 3) PROW - concerns with regards to the treatment and diversion of these. The existing land has many PROWs and permissive ways through and around it. The illustrative drawings of the new golf course shows no access for the public and thus access to a public amenity will be lost and the land will become private access only - FPC object as residents will lose a currently public amenity.
- 4) SO DM1 - Plans to relocate to Ancton on Grade 2 agricultural land. FPC object as the move to Ancton will remove valuable farming land and convert it to a non productive private resource.
- 5) Traffic and Access - Traffic Impact - Access to new golf course off A259. The A259 from the Felpham relief road roundabout east end to the Wick roundabout (by Morrisons) has been subject to a consultation by WSCC and a series of works determined to alleviate the overloaded roundabouts and

road at peak times along that route. FPC object as this work did NOT include the impact of and traffic generation from this development. (Confirmed by WSCC). (Contributions of £1.2m from Ford Residential development).

6) Traffic and Access - Junction to new Golf Club location is via, it appears, a simple T junction off the A259. This is an unrestricted single carriageway road (60 mph speed limit) between potentially two Roundabouts at Oystercatcher and Comet Corner (themselves notorious junctions). The golf club predicts circa 40,000 rounds of golf per annum (generating 80,000 car movements?) and the only access is through the proposed junction.

FPC object as this junction will present an unacceptable risk as vehicles turn right (coming from Felpham) or turning right leaving (to go to Littlehampton) and re-establish risks on a road which has suffered fatalities (in the past) and serious accidents (regularly).

7) Traffic and Access - FPC object as there is no alternative access and egress to the golf course in the event of the A259 being blocked.

72 letters of objection were received. The main points of concern raised were:

- Loss of productive agricultural land that should be retained for food production which is all the more important now.
- The development will bring more congestion to the dangerous junction at Comet Corner and the new access will be dangerous.
- Site is an important uniquely peaceful green corridor and the golf course will urbanise this.
- Will result in a loss of wildlife.
- The existing golf club is adequate, it has been run down by the badly run committee & management.
- Golf courses only benefit a few people in the local community.
- There are other golf courses nearby at Walberton & Littlehampton meaning a concentration of golf courses in a small area.
- The site has flooding and drainage problems.
- Applicants have failed to address why the proposed course cannot be built elsewhere outside of the gap between settlements.
- Permissive rights for walkers would be removed.

Approximately 74 letters of support on the basis that:

- The area is in need of a first class golf course and increases in membership support this.
- It will be an excellent facility for the area and enhance the area for visitors.
- The new course has been designed to minimise flooding issues.
- Would secure the course for the next 100 years.

#### **COMMENTS ON REPRESENTATIONS RECEIVED:**

The Parish Council and third party comments are noted and will be addressed in the conclusions section, where they relate to material planning matters.

<b>CONSULTATIONS</b>
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#### **CONSULTATION RESPONSES RECEIVED:**

West Sussex County Council Highways:

Based on the revised information now submitted, the County Highway Authority is now satisfied with the proposal from a highways perspective. As such, should the local planning authority be minded to approve the planning application, the County Highway Authority recommends that it only does so subject

to the completion of a S106 Agreement securing a Travel Plan and Travel Plan monitoring fee as well as relevant planning conditions to secure access, car parking, cycle parking, internal access roads, construction management plan and informatives.

National Highways:

No objection. Are satisfied that the development will not materially affect the safety or reliability of the Strategic Road Network.

West Sussex County Council Lead Flood Authority:

Current surface water mapping shows that the proposed site is at high risk from surface water flooding. This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events. Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.

All works to be undertaken in accordance with the local planning authority agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The maintenance and management of the SuDS system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the local planning authority and the scheme shall subsequently be implemented in accordance with the approved designs.

Land Drainage:

The surface water drainage strategy remains lacking in detail and does not sufficiently address previous concerns. The level of detail provided in the technical note is very schematic and outline and does not clearly provide details of the proposed attenuation basins and associated drainage. It is not clear whether the proposals will properly address the risk of surface water flooding on site and downstream.

Environment Agency:

No objection subject to the development being carried out in accordance with the submitted flood risk assessment and mitigation measures to include post development ground levels to match those shown in the grading plans and subject to the imposition of conditions.

West Sussex County Council Public Rights of Way Team:

No objection on the basis that the section of the route between the Ryebank Rife and the entrance to the site will be improved with a 3m wide footpath with planting either side. The remainder of the route south of the Ryebank Rife will be improved to make the route clearer, removing shrubs etc. and the surface will be improved to provide a chipped bark surface or similar appropriate material taking account of existing Tree Preservation Order status of trees in this location. Note the intention to keep FP165 as a footpath and improve the northern section as a 3m wide footpath with planting either side. Welcome the intention to improve the remainder of the route south including the surface. Would welcome the improvement of the surface of this section of the footpath, southwards, through the new golf course. Specifically, would look for the surface to meet WSCC specifications for rural footpaths so that they can maintain the route going forward. Any Tree Preservation Orders with Root Protection Areas may require different treatment which can be advised on by the West Sussex County Council Public Rights of Way Team. Proposed details to be secured by condition.

Arun District Council Leisure and Greenspace:

No objection in principle.

Ecology:

No objection subject to securing ecological mitigation and biodiversity enhancements.

Arun Tree Officer:

The tree survey data is comprehensive and agree with the retention category ratings for on and off-site trees. The general 'principle of development' as described is achievable without undue detriment to higher value trees, but it requires a more sympathetic approach to the tree line east of Grevatt's Bridge. Suggest the applicant be encouraged to revisit this area of the layout.

Important arboricultural information is absent from this full application, such that cannot be sure retained trees and hedgerow would be adequately protected. As it stands am unable to support the application and so register an objection.

Environmental Health:

No objection in principle, if to be permitted conditions required relating to electric vehicle charging points, unexpected contamination and construction management plan / hours.

Archaeology Advisor:

No objection subject to imposition of condition.

Sussex Police:

No objection.

Southern Water:

No objection in principle subject to formal application for connection to the public sewer and suitable clearance allowed either side of the sewer with no soakaway, swale, ponds, watercourses or tree planting within this area.

Department of Levelling up and Communities:

No comments to make on the Environmental Statement.

West Sussex Fire and Rescue Service:

No objection subject to a condition requiring additional fire hydrants.

#### COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

#### POLICY CONTEXT

Designation applicable to site:

Outside Built-up Area Boundary

Countryside

Designated gap between settlement

Flood Zone 3

Risk of flooding from fluvial and tidal sources (majority of the site)

#### DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation

ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM4	ENV DM4 Protection of trees
ENVSP1	ENV SP1 Natural Environment
GISP1	GI SP1 Green Infrastructure and Development
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HWBSP1	HWB SP1 Health and Wellbeing
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
QEDM2	QE DM2 Light pollution
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
SKILLSSP1	SKILLS SP1 Employment and Skills
SODM1	SO DM1 Soils
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WSP1	W SP1 Water

<a href="#">Clymping Neighbourhood Plan 2015 Policy CPN10</a>	Protection of high grade Agricultural Land
Clymping Neighbourhood Plan 2015 Policy CPN11	Quality of Design
Clymping Neighbourhood Plan 2015 Policy CPN12	Reducing the risk of flooding
Clymping Neighbourhood Plan 2015 Policy CPN14	Traffic and the Environment
Clymping Neighbourhood Plan 2015 Policy CPN5	Support and promote recreation and tourism
Clymping Neighbourhood Plan 2015 Policy CPN7	Protection of open views
Clymping Neighbourhood Plan 2015 Policy CPN8	Protection of Trees and Hedgerows
Yapton Neighbourhood Development Plan 2011-2031 Policy E6	Green infrastructure and development
Yapton Neighbourhood Development Plan 2011-2031 Policy E11	Minimising the impact of flooding from development
Yapton Neighbourhood Development Plan 2011-2031 Policy E1	Protection of high value agricultural land
Yapton Neighbourhood Development Plan 2011-2031 Policy H4	Quality and Design

#### **POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country



Planning (Local Planning) (England) Regulations 2012.

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal conflicts with relevant Development Plan policies in that it is located in an area of countryside that is a strategic gap, within an area at risk of flooding and land comprised of best and most versatile agricultural land.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

## OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

## CONCLUSIONS

### PRINCIPLE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Yapton Neighbourhood Development Plan made in 2021 ("FNDP"), the Climping Neighbourhood Plan ("CNDP") made October 2015 and the West Sussex Waste and Minerals Plans. The Ryebank Rife crosses the site and is designated as a Biodiversity Opportunity Area

Having regard to Policy SD SP2 of the adopted Arun Local Plan, the site is located outside of the Built-up Boundary and is defined as being in the countryside. Under the provisions of Policy C SP1 of the Arun Local Plan, development will only be permitted within this area for a defined list of countryside uses. Green infrastructure is one such acceptable use and that does include outdoor sports facilities (with natural or artificial surfaces and either publicly or privately owned) - including tennis courts, bowling greens, sports pitches, golf courses, athletics tracks, school and other institutional playing fields, and other outdoor sports areas. Therefore, the proposed development would accord with the requirements of policy C SP1 of the Arun Local Plan.

The site is within an identified Settlement Gap where Policy SD SP3 is relevant. The provisions of Policy SD SP3 state that development will only be permitted within the Gaps if, amongst other things, it would not undermine the physical and/or visual separation of settlements, would not compromise the integrity of the Gap, either individually or cumulatively with other existing or proposed development and it cannot be located elsewhere.

**SUSTAINABLE DEVELOPMENT**

Starting with the land itself, the agricultural land maps for the area around Bognor Regis classify 60% of it as being best and most versatile land. The majority of the proposed golf course was surveyed by the Agricultural Development Advisory Service (ADAS) in the past (1993) and a further recent survey was undertaken to classify the northern part of the site. Taken together the surveys show that 2.2% is Grade 2 (very good), 27.2% is Grade 3a (Good), 42.6% is Grade 3b (moderate) and 11.2 % woodland with a further 16.8% not surveyed or not agricultural. Grades 1, 2 and 3a are classed as the best and most versatile land and as such the land is of a quality suitable for agriculture. The Environmental Statement (ES) submitted with the application concludes that parts of the golf course could be returned to agricultural use in the future, if required, and that the impact is reversible.

Policy SO DM1 of the Arun Local Plan seeks to conserve the best and most versatile agricultural land. The preamble to the policy states that the planning system should protect and enhance valued soil because it is an important natural resource. Fertile soil is vital for the production of food, timber, fibre and other crops which are all essential for human existence and which provide economic prosperity.

Many residents have objected to the loss of land on this basis. Policy SO DM1 is explicit in stating that the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term. The requirement to protect the best and most versatile land can be outweighed if it is demonstrated through sustainability and options appraisals that (amongst other things) any site preferred for development is demonstrated to be the best and most sustainable option, including but not limited to, the terms of land quality, ecosystem services, infrastructure and proven need. It has not been demonstrated that the site is the best and most suitable option since no other sites have been considered. Furthermore, Policy SO DM1 goes on to say that where development is permitted it should, as far as possible, use the lowest grade of land suitable for that development.

Once agricultural land is developed for golf courses, its return to agricultural land is seldom practicable because the buildings, land recontouring, water courses and hard surfaces associated with parking all have to be taken into account.

The existing golf course has not been closed and nor has any planning permission been granted for an alternative use on the site (such as permission for the outline application for residential development that is also before members today). In the absence of a demonstrated loss of the golf course, there is no requirement for another to replace it.

Therefore, the proposed golf course has not been demonstrated to be necessary. If permitted, it would result in the loss of best and most versatile land and the likelihood of the land being returned to the same level of agricultural use it has now is considered unlikely. Accordingly the proposal is considered to fail to accord with the principles of sustainable development and be contrary to Policy SD SP1 and SO DM1 of the Arun Local Plan, Policy CPN10 of the Clymping Neighbourhood Plan and Policy E1 of the Yapton Neighbourhood Plan both relating to the protection of agricultural land.

**ACCESS, TRAFFIC, ROAD SAFETY & PARKING**

The main access into the site will be from a new priority junction being formed on to the A259 along the site's northern boundary. In addition a right turn lane is proposed with localised widening of the road to accommodate this. Visibility splays of 4.5 metres x 215 metres are shown corresponding with the speed limit of the A259 in this location.

The highways works for the creation of the access will require the removal of some Category C trees.

The site entrance is designed to include soft features such as mounding and native hedgerows along with estate railings with signage proposed adjacent to the A259 to direct visitors into the site.

The new access road will be a two-way carriageway with a minimum width of 4.8 metres and a 2 metre footway which will extend some 140 metres into the site providing pedestrian access to the club house, car park and maintenance facility. The road will cross the existing public right of way and pedestrian measures will be provided to retain this route.

Improvements are proposed to a section of the existing public right of way which will be improved with a loose substrate surface at 3 metres wide with a 1 metre maintained grass strip either side; and there will be a new connection between the public right of way and pedestrian crossing on Grevatt's Lane running along the northern boundary. Off site highway mitigation will include a refuge island on the A259 to accommodate a pedestrian and cycle crossing point.

The access will also feature a spur road to allow deliveries to the course maintenance building as well as providing access for the green staff. The main clubhouse will have a layby for drop off and a service area to the west for clubhouse deliveries such as kegs, refuse etc.

The parking provision consists of 241 car parking spaces which will be located to the west of the access road. In accordance with The Arun Parking Standards SPD, at least 30% of the total number of spaces should feature active EV charging provision. A further overspill area is proposed to the north of the main car park and will feature additional parking for approximately 42 vehicles. A total of 13 spaces are shown on the plans as being accessible which would equate to just over 5% of the main car park in accordance with the Arun Parking SPD.

The A259 forms part of the National Cycle Network Route 2 and there will be three cycle stands provided, these will be located close to the Golf Club entrance and accommodate up to 6 cycles. The cycle parking will be in a lit and sheltered location.

The nearest bus stop to the site is at The Oystercatcher and is located around 1.2km to the east of the site which is approximately a 15 minute walk. Whilst it is noted in the travel plan that this is not considered an unreasonable distance to walk, especially for commuting trips, it must be borne in mind that most commuters do not carry a set of golf clubs. It is unlikely that this is a realistic option for golfers accessing the club. Therefore, the lack of alternative modes of transport will restrict the use of the facility to those who travel by car. Therefore, the site is considered to be in a very unsustainable location by virtue of the limited public transport options.

The highway impacts of the development have been considered by West Sussex County Council (WSCC) as Highway Authority and they have raised no objections in terms of highway safety or impacts.

#### FLOOD RISK

The majority of the site is located in Flood Zone 3 with a small area of the site in the northwest located in Flood Zone 1. Policy W SP1 is relevant to flood risk and states that the Council will support development that:

- a - is appropriately located, taking account of flood risk and promotes the incorporation of appropriate mitigation measures into new development, particularly Sustainable Drainage Systems that reduces the creation and flow of surface water and improves water quality;
- b. reduces the risk to homes and places of work from flooding whilst increasing biodiversity; and
- c. delivers a range of community benefits including enhancing the quality of life and providing greater resistance to the impact of climate change.

Policy WDM2 of the Arun Local Plan requires development in areas at risk from flooding, identified on the latest Environment Agency flood risk maps and the Council's Strategic Flood Risk Assessment (SFRA) to only be permitted where a sequential test in accordance with the National Planning Policy Guidance (NPPG) has been met and a site specific Flood Risk Assessment demonstrates that the development will be safe, including access and egress, without increasing flood risk elsewhere and reduce flood risk overall.

This policy is reiterated in Policy CPN12 of the Clymping Neighbourhood Plan and Policy E11 of the Yapton Neighbourhood Plan. As set out in the National Planning Policy Framework (NPPF), the aim of the sequential test is to steer new development to areas with the lowest probability of flooding.

Under the National Planning Policy Framework a golf course is classed as 'Water Compatible' using the flood risk vulnerability classification. Water compatible development is permitted in Flood Zone 3a. But the aim of the sequential test is to firstly steer development away from areas at risk of flooding and to only consider such sites if a sequential test has been undertaken which identifies that no other suitable sites at less risk of flooding are available.

The applicant has not undertaken a sequential test to explore whether there are alternative sites available within the district that could be used for the golf course. It is usual practice for applicants to agree a geographical search area with the local authority and then explore whether there were sites suitable for such a use within that area and run through an exercise to assess their flood risk, specific suitability, and availability. If at the end of that exercise no alternative sites were deemed suitable, they could proceed with the site they preferred. The applicants have not undertaken this exercise.

The applicants undertook consultation with the Environment Agency to agree the scope and methodology for hydraulic modelling to redefine the flood extents for the site. The modelled 1 in 100 year plus climate change flood depths and extents showed that the majority of the site was not at risk of flooding but some remained at risk, and some areas such as Acton Way to the south of the site had flood depths 17mm deeper in the post development event but this difference was 'deemed to be within the model tolerance', which is considered to be +/- 20mm. The most significant area at risk was along the boundary of the site adjacent to the River Elmer.

A Flood Risk Assessment was provided with the application when it was submitted dated February 2022. Within that the applicants make the case that the hydraulic model was then modified to incorporate the post development scenario to include site regrading (land raising). This showed that there are areas of beneficial and adverse impact. Fluvial modelling again used post development modelling to show minor changes in the flood depth in the post development scenario compared to the baseline scenario. The submission identified that golf buildings are intended to be located to the north of the site outside of the floodplain.

Surface water flood risk was shown to be low and it was noted that the proposed development would re-profile the entire site which would change the existing surface water flow routes. But the drainage strategy would be designed to address this.

The site is also in an area at high risk of groundwater flooding. To mitigate against this a positive surface water drainage system is proposed, surface water channels will be increased and reprofiled where necessary and the clubhouse and maintenance buildings raised above ground levels. It is on this basis that the applicant considers the scheme to be sequentially acceptable because the buildings would, (after development and regrading of the site) be in an area at low risk of flooding.

The Environment Agency maps show that the site is in an area at risk of flooding. Refined modelling scenarios (agreed with the Environment Agency) show that even after modelling some of the site

remains at risk of flooding. Notwithstanding the fact that the Environment Agency do not now object to the proposal (based on the fact that post development the buildings will be located to the north of the site on raised platforms and thus in an area at low risk of flooding), some of the site remains in an area at risk of flooding.

Despite the exercise carried out for the flood risk assessment, there may well be other sites within the district suitable for a new golf course that are not at risk of flooding and that do not result in loss of best and most versatile land, require land reprofiling, buildings being raised etc. to overcome the flood risk. This land regrading affects the current flood levels, and as stated in the flood risk assessment report, introduces minor differences which would result in both beneficial and adverse impacts.

The site is currently at risk of flooding, hydraulic modelling and reprofiling of the land shows that the more sensitive parts of the development (clubhouse and maintenance buildings) will be located outside of the floodplain in the post development scenario but other areas of the course i.e. the development as a whole, will remain at risk of flooding.

Whilst golf courses are identified as outdoor sports and recreation uses and therefore considered to be water compatible development, one of the reasons the existing golf courses wishes to relocate is because of problems it is experiencing with drainage and flooding. The best place to relocate the golf course to would have been to an area at low / zero risk of flooding for the entire site.

By way of example, the land to the north of the A259 is not located in Flood Zone 2 or 3 and nor is it within an area identified as a strategic gap, and whilst also likely to result in a loss of agricultural land, it is not on land that would have any flood risk associated with it.

A sequential approach to site selection as advocated by the planning practice guidance note may have identified other more suitable sites.

For the above reasons, the development fails to accord with flood risk policies as set out in Policy W DM2 of the Arun Local Plan, Policy CPN12 of the Clymping Neighbourhood Plan and Policy E11 of the Yapton Neighbourhood Plan as well as the NPPF.

#### DRAINAGE

To mitigate the risk of surface water flooding a drainage and suburban drainage system strategy has been developed which will involve attenuation and harvesting of surface water runoff at source via ponds and swales prior to discharge into the Ryebank Rife. The water will be collected in a reservoir for re-use to minimise the impacts on the wider water environment by minimising the amount of water which is required for irrigation.

The surface water runoff to the Ryebank or Elmer Rife will be at greenfield rates for the following scenarios:

- Should the reservoir become full during a storm event;
- The runoff rates exceed the pump rates; or
- Runoff occurs from areas which are not part of the rain water harvesting scheme.

It is stated that as the golf course will predominantly remain as a greenfield site (excluding car parking, access roads, club house and maintenance depot) the scheme will not result in an increase in runoff rates from these areas. The surface water runoff from the new impermeable areas will be collected, treated appropriately (e.g. suburban drainage system) and discharged to the reservoir or discharged at greenfield rates to the Ryebank or Elmer Rife.

Arun Engineers do not consider pumping sustainable for the site and encouraged the applicant to investigate alternative methods and have also stated that no clear surface water drainage proposals are provided for this site.

Whilst 3D ground modelling is provided, the Council's Engineers have advised that more information needs to be provided on where the proposed impermeable areas are draining to, the level of attenuation provision and where surface water will be discharge to. Surface water calculations also need to be provided to demonstrate that the run-off from these areas can be accommodated within the proposed attenuation features.

Clear information on the modelled fluvial flood level in relation to the attenuation features also needs to be provided and surface water calculations need to demonstrate the impact of joint probability events. This is to ensure that the quantum of development proposed at outline stage is achievable and that the surface water drainage proposals are appropriate and do not increase the risk of flooding elsewhere or onsite. In addition to this, the locations of the proposed SUDs features must be sited outside of the modelled fluvial flood extents.

The current strategy outlines that run-off from the site will be restricted to greenfield rates to the existing watercourse but does not explore the opportunity for on-site infiltration. A hierarchical approach to the disposal of surface water should be undertaken with priority to infiltration of surface water. Infiltration testing must be carried out to assess the opportunities for infiltration to ground. Therefore, infiltration testing is required and should be carried out in January/February (subject to agreement) and at agreed locations / depths. Furthermore groundwater monitoring is required to support the design of the basins and ensure there is no loss in attenuation capacity as a result of high groundwater levels.

No further information was provided by the applicant in response to the comments from the Council's Drainage Engineers made in March 2023. As such a holding objection remains in place. In the absence of further information being provided, the development as it stands is contrary to Policy W DM3 of the Arun Local Plan relating to sustainable drainage.

## LAYOUT

The site can be broadly split into 3 areas:

- Western Field south of the A259 which will feature a 9 hole golf course, and car parking plus overspill parking area.
- Northern Field south of the A259 featuring the club house, maintenance facility, driving range and range building, practice facilities, 1st hole and 18th green of the course.
- Southern Field containing holes 2-17, halfway house and the 18th fairway.

There will also be a number of water bodies associated with the course. In the far northeast of the site and east of the maintenance facility will be a large irrigation storage pond. In the west of the site (west of the car park) will be a further 2 lakes and another irrigation storage pond. In the southern part around the 18 hole course will be a further 5 ponds.

2 bridges will be required to cross the Ryebank Rife, one from the 1st hole to go south to the second hole and another to cross from the 18th hole to finish on the green by the clubhouse.

## BUILT DEVELOPMENT

The club house is a single storey building with a footprint of 1,407m<sup>2</sup> with an additional balcony of 57m<sup>2</sup> and a maximum ridge height of 7.1 metres, reaching 7.5 metres to the top of the chimney. This building will contain hospitality areas, changing rooms, offices, and ancillary rooms. The club house is set on a plinth at 5.00 metres above ordnance datum.

The proposed maintenance facility is also a single storey building with a footprint of 883m<sup>2</sup> with a maximum ridge height of 6.0 metres. This building will house a maintenance vehicle workshop, various storerooms, offices, as well as staff change rooms.

The driving range building will feature a maximum height of 5.0 metres and a footprint of 502m<sup>2</sup>. The building will have 15 bays (10 covered) as well as a buggy store that will house 12 buggies.

The greenkeepers buildings are illustrated as being featuring brick plinth, timber cladding and a metal roof system all in muted earthy colours. The driving range will feature a flint plinth with timber cladding above and a mono pitch roof, again all in muted earthy tones.

The club house is of an angular design featuring a mix of roof pitches, the roof will also be provided with a photovoltaic cell bank. Externally the elevations will comprise a mix of red brick and flint stonework in large sections to break up the elevations. A timber brise soleil (solar shade) will be provided to screen the restaurant bar and function area and the adjoining members sports area. This part of the building will also feature an external mezzanine.

The building is designed to be modern and contemporary. One of the main complicating factors in assessing the application and the likely impact of the clubhouse building is that there is no landscape visual assessment submitted with the application. Therefore, it is not possible to assess how the building will sit in the landscape or how it will be viewed from any wider public viewpoints. This is also compounded by the fact that land raising is proposed. A visual impact assessment could have shown the views into and out of the current site and explored how these would have altered with land raising and the placement of buildings. This is covered in more detail in the sections below. However, the design of the club house building is deemed to be refreshing and contemporary with the materials proposed being suitable for a rural area.

A single storey halfway house will be sited in the southern part of the application site with a footprint of 23 m<sup>2</sup>. An irrigation pump station enclosure will also be needed and this will resemble a simple metal shed type structure together with a circular 5 metre high water tank approximately 10 metres in width located to the north east of the maintenance facility.

The development also includes earthworks and infrastructure which is covered separately in this report. One section of ditch on site will be lost to create hole 3 and another will be culverted over to allow for the creation of the first hole. To compensate for sections of this loss a new ditch will run along the sites boundary and connect with the Rife. Finally, 2 bridges will be required to enable golfers to cross the Ryebank Rife watercourse that crosses the site running east to west.

No Landscape Visual Impact Assessment (LVIA) was provided with the application but some key viewpoints were assessed to see what, if any impact, the development would have on those. However, it is not clear whether those assessments looked at the impact of the development based on the existing landform and topography or whether they took into account the land raising and subsequent built development, they were also viewpoints taken from some distance beyond the site boundary.

The Planning Statement provided with the application states that the placement of the buildings will ensure that there is limited inter-visibility when passing along the A259, and with visual impact from more distant locations. It goes on to state that the layout of the scheme places the club house and associated buildings in a set back location from the A259 in keeping with the character of the Gap.

However, public footpath 165 runs along the eastern boundary of the site and will cut through the northern section and run alongside the proposed access road. This path provides views into and across

the site offering public viewpoints for the site yet no analysis was undertaken of the likely impact of the development from here. When entering the site on footpath 165 from the north, there will be clear views to the car park to the west, the clubhouse to the south and the maintenance depot to the east. The clubhouse will sit at 5.0m above ordnance datum and at the highest point be 13m above ordnance datum. It will be significant in scale and it will become a prominent feature in the landscape when viewed from the public footpath. The access, cycleway, and public footpath will represent a clear break in the hedge line and allow additional views into the site and of the built development beyond.

The development as proposed would undermine the physical and visual separation of the settlements due to the introduction of built form within the site especially given the structures visibility from public viewpoints. The proposed development is therefore contrary to Policies SD SP2 and C SP1 of the Arun Local Plan and Policy BB1 and E6 of the Yapton Neighbourhood Plan as well as Policy CPN 5 of the Clymping Neighbourhood Plan.

#### **LANDRAISING**

As noted above, the clubhouse is proposed to be set on a plinth at 5.00 metres above ordnance datum. The land where the clubhouse is proposed to be located currently sits at around 4 metres above ordnance datum. The formation of the golf course will require substantial land grading to achieve the landform that golfers expect. A grading plan shows the existing and proposed contours.

In the north of the site just south of the A259, existing ground levels sit at around 3.5 metres to 4.0 metres above ordnance datum. Along the Ryebank Rife (separating the northern and southern parts of the site) levels sit at around 3 metres above ordnance datum. South of the Ryebank Rife levels sit at around 2.5 metres to 3.6 metres above ordnance datum.

The site is currently largely flat but the regrading will create localised depressions for the lakes with a bottom notated at 0 metres above ordnance datum and other depressions at around 2 & 3 metres above ordnance datum and mounds which would extend up to 6 metres above ordnance datum.

The clubhouse, driving range and maintenance buildings are proposed to be sited on land that currently sits at an average of between 4.0 metres and 4.2 metres above ordnance datum. The proposed clubhouse will have a finished floor level of 5.5 metres above ordnance datum to bring it out of the area at risk of flooding.

It is not clear within the submission as to whether the regrading can be carried out using the material that exists on site or whether material will need to be imported / exported to achieve the resultant landform.

New golf courses by their very nature entail significant alterations to the landform to create bunkers, fairways, greens, and water courses. All of these are significant engineering operations that will change the character of the land. Golf courses such as this are viewed as non-natural landscapes. If permitted it would change the character of the site from what is currently experienced as open flat agricultural land which represents a clear break in the settlement pattern to an area of land that is modified topographically, unnatural and not representative of the open countryside associated with the current settlement gap.

#### **CONSERVATION AND HERITAGE**

There are three listed buildings within 500 metres of the site, the nearest being Ancton House to the south west on Ancton Lane. Due to the distance from the site, the intervening vegetation and topography, none of the heritage assets are considered sensitive to change from the proposed development.

Therefore, the proposed development would not result in any harm to the setting or significance of any



designated heritage assets and as such would accord with policy HER SP1 of the Arun Local Plan.

A Heritage Desk Based Assessment and Geophysical Survey have been provided as part of the environmental statement. The survey has identified three areas of archaeological interest and two areas of rectilinear anomalies. Were permission to be granted these could be investigated by a staged programme of archaeological works and where necessary, a suitable mitigation strategy.

#### ECOLOGY

An extended phase 1 survey, desk study and range of protected species surveys were completed by the applicant for the site. These reports concluded that due to the distances from the site there will be no effect on any nearby designated international site. One non-statutory site is located 0.4km from the site (Elmer Rocks) but due to the distance there will be no impact from the proposed development. No Sites of Special Scientific Interest are located within 2 km of the site.

The existing site is dominated by arable fields bordered by deciduous woodlands, arable margins and hedgerows all of which are classified as habitats of principal importance, including the Ryebank Rife. One of the four hedgerows present on site is identified as important under the hedgerow regulations as well as providing habitat opportunities. In addition to this habitat two ponds are located within 250 metres as well as the Ryebank Rife which has been identified as not suitable for Great Crested newts. The site also provides some suitable habitat for a range of protected species including bats, birds, hazel dormice, reptiles and riparian mammals. The survey work carried out by the applicant also confirmed that slow worms and reptile populations were recorded on site.

Proposed enhancements should result in a biodiversity net gain of 49.24% for habitats, 33.56% for hedgerows and tree features and 6.53% for rivers / streams. Other enhancement will include bat and bird boxes. No objection has been raised subject to securing ecological mitigation and biodiversity enhancements.

#### TREES / LANDSCAPING

All of the boundary vegetation is retained other than where the existing access is widened from the A259. The formation of the access will result in the loss of approximately 70m of hedgerow to achieve the required visibility splays and new hedgerow planting has been proposed to compensate for this loss. All vegetation along the Ryebank Rife will be retained but for 2 sections which will have to be cleared to enable the construction of two bridges.

An Arboricultural Assessment has been prepared and accompanies the application. This shows the extent of trees to be retained and removed as well as new tree and hedgerow planting. Five groups of category C trees are proposed to be removed and 2 hedgerows are proposed to be entirely removed. New planting proposed includes circa 1,000 linear meters of native hedgerow; circa 750 singular specimen ornamental and native trees; 0.64ha of woodland matrix planting; and circa 4.35 hectares of proposed native shrub area. In addition, a 10 metre planting buffer is proposed along the Rife to create a physical barrier, prevent erosion of the banks and provide wildlife habitat. At least 10% biodiversity net gain will be provided.

The Council's Tree Officer has objected to the proposed development on the basis that important arboricultural information is absent from the application. In addition it has been identified that whilst it is acknowledged that the 'principle of development' is achievable on site without undue detriment to higher value trees a more sympathetic approach is required. This is specifically the case for the line of trees to the east of Gravatt's Bridge with the tree officer requesting that this area of the layout is revised. It is proposed that loss of trees would be compensated by the planting of additional trees.

Therefore, as proposed the layout would adversely impact upon existing trees contrary to the

development plan, albeit it is acknowledged by officer's that amendments to the layout could overcome this conflict. The additional planting and landscaping measures proposed are acceptable but do not appropriately mitigate for the loss of existing mature trees which could be retained through amendments to the layout.

#### **LIGHTING**

The application is accompanied by a lighting statement which identifies the main areas requiring illumination and being the main entrance, the access road, the car park (including the overflow area) the club house and surroundings, the driving range, buggy store and the green keepers compound. No lighting is proposed on the driving range itself, just the driving range building will be illuminated.

Lighting is to be proposed as mainly wall, ceiling, bollard and column lit units via LED lights. The scheme proposes that column mounted lights will be controlled via photocells and dimmable controls. In the evening as the light drops the photocells will switch the lights on to 100% and then they will dim between 12pm and 6am. An override switch can be used to turn them off when required.

Bollard lights will also be controlled via photocells as well as timers and manual override switch.

Wall mounted lights will be controlled by photocells and passive infra red (PIR) sensors. These will switch on when the daylight is reduced but then switch off if no movement is detected. Manual overrides will also be present.

The provision of photocells timers and override switches will ensure that the lights only illuminate when the daylight has sufficiently reduced and allow the users to switch off the lights manually when they are not required. Timers also allow the scheme to switch on and off of between certain hours. Generally, lights are to be designed to prevent the spread of light in an upward direction and prevent overspill out of the site boundary. Details of the types of lights proposed are given in the report and being LED they are energy efficient.

The addition of lights here will introduce an element of light that is currently not present. However, light spill would not pass the site boundary and not have an impact on the wider landscape. The levels proposed are seen as appropriate and necessary for the use proposed, the design of the units will minimise upward glare and spillage and the duration of illumination could be controlled via the imposition of planning conditions. The proposed lighting scheme is therefore considered to be acceptable for the use.

#### **SUMMARY & PLANNING BALANCE**

This application is interlinked with and dependent on, application FP/274/21/OUT, which is an outline application for residential development on the existing golf course. Each application is mutually dependent on the other, but each is a separate planning application that must be considered on its own merits.

Should Member's agree with the officer's recommendation to refuse FP/274/21/OUT for residential development on the existing golf course then the need for this replacement golf course would fall away. In such a situation the refusal of FP/274/21/OUT would remove the need for the existing course to be relocated and as such reduce the need for such a facility to be provided.

This report identifies that the proposal is in conflict with the Council's policies in respect of being development in an area at risk of flooding. No sequential test has been undertaken to assess whether the proposed golf course could be located within an area with a lower risk of flooding and it is necessary to pass the sequential test before seeking to apply the exception test.

The development is located outside of the built up area boundary and within the countryside, Policy C SP1 relating to the countryside does not rule out the development proposals for quiet, informal recreation and golf could fall within this category. Therefore, the development is not inappropriate for a countryside location and would not conflict with policy C SP1 of the Arun Local Plan.

The site is also located within a Gap between settlements and Policy SD SP3 is relevant. Development will only be permitted within the Gaps if, amongst other things, it cannot be located elsewhere. Due to the fact that an appropriate sequential test has not been undertaken, it has not been demonstrated that there is no alternative site which could accommodate the golf course outside of the settlement gap, as required by Policy SD SP3 (c).

The designation of Gaps is not intended to rule out all development and does allow for appropriate, small scale development, which is in keeping with the rural nature of the Gaps. However, the proposal includes an 18 hole course, 9 hole course, golf driving range as well as the club house, maintenance building, reservoir and car parking for more than 240 vehicles. It is defined as major development and is not considered to represent appropriate small scale development and in the absence of any demonstrated need (subject to the refusal of FP/274/21/OUT) would not be appropriate within the Gap.

By virtue of the public viewpoints that will be available, and the level of built development and associated infrastructure such as buildings, heights, car parking areas, land raising and lighting, the development as proposed would introduce significant new development to the immediate south of the A259 which would significantly reduce the extent of the strategic gap undermining the visual separation of the settlements and compromising the integrity of the Gap.

The site is identified as being comprised of best and most versatile land and the development would, if permitted, result in a loss of this. In addition, there are outstanding issues relating to drainage.

To conclude, the identified harm likely to result from the provision of the new golf course is not outweighed by the requirement to provide a golf course. However, were the application for residential development on the existing golf course to be permitted, the harm from the application for the proposed new golf course would need to be balanced against the requirement to provide an alternative facility, as proposed by this application.

Therefore, in light of the above it is recommended that the application is refused for the reasons set out below.

#### **HUMAN RIGHTS ACT**

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

## DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

## CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

## RECOMMENDATION

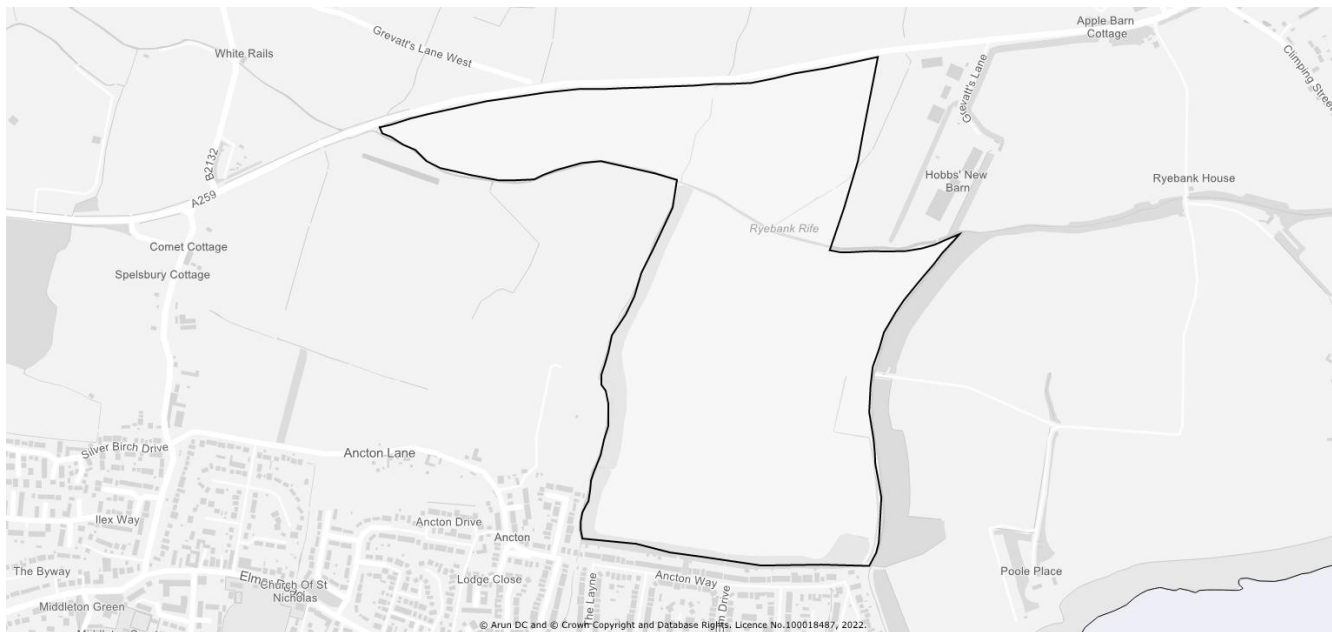
REFUSE

- 1 The site is not allocated within the Arun Local Plan and falls within an area identified as at risk of flooding (Flood Zone 3a). The application fails to adequately address the sequential test in relation to Surface Water Flood Risk and in the absence of a satisfactory sequential test, it has not been demonstrated that the proposed development is appropriate in this area contrary to policy W DM2 of the Arun Local Plan, policy CPN 12 of the Climping Neighbourhood Development Plan, policy E11 of the Yapton Neighbourhood Plan and the National Planning Policy Framework.
- 2 Insufficient information has been provided in support of the application to adequately demonstrate that the proposed drainage strategy would adequately address the risk of surface water flooding both on site and downstream. Therefore, the proposed development is contrary to policy W DM3 of the Arun Local Plan and the NPPF.
- 3 The site is located in an area identified as a Gap between settlements and identified as part of the Green Infrastructure Network. In the absence of an appropriate sequential test having been carried out, it has not been adequately demonstrated that the proposed golf course could be located elsewhere outside of the Gap. Given the extent and scale of built form, land remodelling and supporting infrastructure, the development proposed is not an appropriate small scale development. If permitted it would alter the distinctive character and settlement structure of the area to an unacceptable degree. The development would therefore be contrary to policy SD SP3 of the Arun Local Plan, policy CPN 5 of the Clymping Neighbourhood Plan and policy E6 of the Yapton Neighbourhood Plan.
- 4 The development as proposed would result in the loss of a large area of best and most versatile land with little realistic chance of it returning to agricultural use in the future contrary to policies SD SP1 and SO DM1 of the Arun Local Plan, policy CPN 10 of the Clymping Neighbourhood Plan and policy E1 of the Yapton Neighbourhood Plan.

## BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**M/16/22/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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PLANNING APPLICATION REPORT

REF NO: M/112/23/S73

LOCATION: 8 Manor Way  
Elmer  
Middleton-on-sea  
PO22 6LA

PROPOSAL: Variation of condition 2 imposed under M/86/20/PL relating to approved plans.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION This application seeks amendments to the approved plans (Condition 2) imposed under application M/86/20/PL.

The original development was for the demolition of existing house and construction of a house measuring 10.29m by 9.34m at ground floor with a roof height of 6.2m to eaves and 10.38m to the ridge.

This application seeks the following amendments only:

- Raising of eaves height by 900mm, the ridge height will remain as approved.
- Slight amendments to the amount of cladding to the elevations.
- Alterations to the positions of 1 first floor window on the western elevation.
- Downpipes front and rear relocated externally from the envelope of the building.
- Rooflight raise by 150mm to allow for robust weatherproofing.

This application does not seek any other amendments, the footprint and layout of the dwelling does not alter as a result of these amendments.

SITE AREA 735 sq.m.

BOUNDARY TREATMENT 2 metre close boarded fence to rear garden boundary.

SITE CHARACTERISTICS A detached residential property.

CHARACTER OF LOCALITY A residential area close to the beach front at Elmer.

**RELEVANT SITE HISTORY**

M/86/20/PL Demolition of existing 2 storey dwelling and construction of new 2 storey 4 bedroom dwelling with habitable loft and all associated works. This site is in CIL Zone 4 and is CIL Liable as new dwelling. ApproveConditionally 19-01-21

M/130/21/DOC Approval of details reserved by condition imposed under DOC Approved  
ref M/86/20/PL relating to Condition No 3 - surface water 26-10-21  
drainage.

Since approval of M/86/20/PL condition 3 relating to surface water drainage has been successfully discharged. This application does not impact the approved surface water drainage scheme for the site.

## REPRESENTATIONS

Middleton Parish Council - Objection

- Parish requested further details alluded to in the Planning Statement.

22/01/23 Parish Council further comments - Objection

- There is a need to know exactly how the rainwater will be discharged, if it is by soakaway, where these are located and if by other means full details and diagrams are needed.

- It appears that the existing pipe discharges onto the new coastal path which is completely unacceptable and sets a dangerous precedent.

## COMMENTS ON REPRESENTATIONS RECEIVED:

Further details in respect of the amendments were provided by the Agent in an email dated 19 January 2023. This set out in detail all the proposed amendments, which are summarised in the description above.

The objection held by the Parish Council is not relevant to this application as it relates to drainage matters which are not part of this application. As noted above condition 3 of M/86/20/PL relates to the surface water drainage scheme, this was discharged in October 2021 after it was fully considered by ADC Drainage Engineers. This application does not seek amendments which could impact the surface water drainage scheme.

Officers have contacted the Parish Council to confirm that the grounds of objection do not relate to the contents of this application and invited them to withdraw their objection. However, they have confirmed that they would like the objection to remain so this application now has to be presented to Planning Committee for consideration.

## CONSULTATION RESPONSES RECEIVED:

None

## POLICY CONTEXT

Designation applicable to site:

PD Restriction.

Built-up Area Boundary

## DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1 D DM1 Aspects of form and design quality



DSP1 D SP1 Design  
QESP1 QE SP1 Quality of the Environment

**PLANNING POLICY GUIDANCE:**

NPPF National Planning Policy Framework  
NPPG National Planning Practice Guidance

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that the design is acceptable and it would not have an adverse impact on the residential amenity of neighbouring properties.

**OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

**CONCLUSIONS**

This application only seeks to vary condition 2 (approved plans) and the only matters which are relevant to the changes will be discussed below. All other matters were considered and remain as approved under application M/86/20/PL.

**DESIGN**

Para. 140 of the NPPF seeks to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.

The proposed alterations to the eaves height, material treatments, repositioning of the window and downpipes can be seen from the highway, as such they will impact the character of the area. The ridge height remains as approved. The eaves height is not dissimilar to the height of the eaves of the flat roof dormer found on the neighbouring dwelling to the east nor to the two-storey property to the west. The slight increase in the amount of cladding to the first floor and the relocation of the first-floor window (1m to the north) does not materially impact the design or the character of the development. The alterations to the design do not negatively impact the character of the area or diminish the quality of the overall design.

The development would accord with the Arun Design Guide chapter P 'Infill Development' in that the development would respect the established pattern of building height, scale, plot width, boundary treatment and building line along the edge of the plot, and continue the rhythm of the street by repeating key elements such as porches, windows and doors.

The development complies with policies D DM1, D SP1 of the Arun Local Plan.

#### RESIDENTIAL AMENITY

The alterations to the height of the eaves does not significantly enlarge the scale of the building and the overall ridge height will remain the same. The footprint and layout remain unaltered and as such the separation gaps to boundaries will not differ from the approved plans. Situated between the enlarged part of the dwelling and neighbouring property to the west is the host dwelling's garage, which lessens any harm arising from the alterations to the eaves height. The front and rear elevations of the 2-storey sections of the of the host property are approximately in line with the neighbour's front and rear elevations to the east. There will be no significant negative impact felt by neighbouring residents from the effects of the proposal from being overbearing or overshadowing.

The first-floor western elevation window was approved with, and still has an outlook over the frontage of the neighbour to the west and the highway beyond. As the properties in this location are all open fronted this causes no unacceptable loss of privacy to the neighbour.

The impact on residential amenity of neighbouring properties would be acceptable and in accordance with policy D DM1 of the Arun Local Plan.

#### SUMMARY

The development is in character with surrounding development and to have an acceptable impact on neighbouring properties and is therefore recommended for approval. As the permission creates an alternative planning permission, conditions will be reimplemented as follows.

Conditions controlling plans have been altered to reflect the submitted documents. Condition 3 (now condition 2) has been altered to reflect the discharge of condition. All other conditions remain the same.

<b>HUMAN RIGHTS ACT</b>
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The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

<b>DUTY UNDER THE EQUALITIES ACT 2010</b>
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Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

**CIL DETAILS**

CIL liability is made against application M/86/20/PL, as this application proposes no additional floor area no additional CIL charges will be levied.

**RECOMMENDATION**

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following approved plans;

Proposed Ground Floor and First Floor Plans Dwg. no. B59051 - 3100 Rev A  
Proposed Loft and Roof Plans Dwg. no. B59051 - 3101 Rev A  
Proposed Front and Side Elevations Dwg. no. B59051 - 3200 Rev A  
Proposed Rear and Side Elevations Dwg. no. B59051 - 3201 Rev A  
Proposed Block Plan Dwg. no. B59051 - 3500 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 2 The proposed surface water drainage scheme shall be implemented in accordance with the following documents approved under M/130/21/DOC:

- 23605-201-A Proposed Surface Water Plan  
- 23605-501-A Construction Details

No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 3 No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved Proposed Block Plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use in accordance with policy T SP1 of the Arun Local Plan.

- 4 Prior to occupation of any of the approved dwellings, the applicant or developer shall provide the dwellings with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or

garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

- 5 The balcony at first floor level shall have a 1.7 metre high obscure glazed screen constructed the full width at both ends. The screens shall be retained for the lifetime of the development.

Reason: To safeguard the amenities of the occupiers of adjoining properties in accordance with policy D DM1 of the Arun Local Plan.

- 6 At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in energy use. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and permanently retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to seek to achieve high levels of energy efficiency in accordance with policy ECC SP2 of Arun Local Planning Authority and the aims of the NPPF.

- 7 INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers. Supplementary guidance notes regarding surface water drainage are located here <https://www.arun.gov.uk/surfacewater> on Arun District Councils website. A surface water drainage checklist is available on Arun District Councils website, this should be submitted with a Discharge of Conditions application.

- 8 INFORMATIVE - Asbestos  
The owner(s) of any domestic property built or refurbished before the year 2000 are legally obliged to protect householders from any risks from work activities being carried out in their homes. Where the work being carried out involves Asbestos-Containing Materials (ACM's), then the Control of Asbestos Regulations 2012 will apply. As the proposed development is being demolished and / or renovated, the Council need to be satisfied that any ACM's previously identified as still present, is either removed or suitably managed to minimise risk to human health as there is no safe threshold for asbestos exposure.

Within any owner-occupied domestic properties, the owner(s) are not legally responsible for risks to contractors from asbestos, as the owners themselves are not engaged in any work activity.

NB: If you are planning any DIY home improvements, repairs or maintenance - and intend to bring in any additional builders, maintenance workers or contractors to site - you must inform them of any ACM's in your home before they start work. This will help reduce the risks of any ACM's being disturbed. The domestic enforcement authority; the Health and Safety Executive (HSE) strongly encourages the use of trained professionals to repair or remove ACM's. If an owner / occupier chooses to carry out DIY repairs or remove damaged asbestos materials themselves, they must make sure the right Personal Protective Equipment (PPE) is used and always follow safe working methods. In addition, please be aware that ACM's need to be legally disposed of as 'hazardous waste'. The removed materials should not be mixed with normal household waste. Arrangements must be made to have any ACM's collected by a competent person(s) or there may be special facilities in an area where you can safely dispose of it.

- 9 INFORMATIVE: Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.  
To make an application visit: [developerservices.southernwater.co.uk](https://developerservices.southernwater.co.uk) and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](https://southernwater.co.uk/developing-building/connection-charging-arrangements)  
The Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse.  
Due to surface water inundation issues in the Lidsey Catchment the applicant is advised to adopt, where appropriate, the measures set out in the table "Practical measures to reduce the potential impacts of development". The developer should look to protect the public sewerage system from inundation and infiltration, which contribute to flooding in unfavourable conditions. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.  
For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).  
Website: [southernwater.co.uk](https://southernwater.co.uk) or by email at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)
- 10 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**M/112/23/S73 - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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PLANNING APPLICATION REPORT

REF NO: WA/35/23/OUT

LOCATION: Land East of Wandleys Lane  
Fontwell

PROPOSAL: Outline Planning Application for up to 95 no. residential dwellings (including 30% affordable), with all matters reserved apart from access. This application is a Departure from the Development Plan.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION Outline permission is sought for the principle of residential development and access only at this stage with the following matters reserved for future consideration:

- Appearance
- Landscaping
- Layout
- Scale

Vehicle and pedestrian access would be provided onto Wandleys Lane. The scheme proposes an upgrade to the northern section of Wandleys Lane to Walberton Lane, which would include road widening and footpath to south side and further north to the northern side. This would be agreed via a S106 agreement/S278 agreement, which would include other contributions that are examined in Conclusions section of this report.

SITE AREA The site extends to 7.15 hectares.

RESIDENTIAL DEVELOPMENT DENSITY 14 dwellings per hectare.

TOPOGRAPHY Predominantly flat.

TREES Mature trees along Wandleys Lane may be impacted by road widening. Some of application site boundaries are made up of mature trees. Ancient Woodland "Wandleys Copse" lies to the south.

BOUNDARY TREATMENT Trees and vegetation of various height to all boundaries.

SITE CHARACTERISTICS Open farmland with access to Wandleys Lane where the site is connected to some hard surfacing for parking and ancillary farm buildings.

CHARACTER OF LOCALITY Rural country lane and fields with sporadic farms and low density residential properties to west, north and east. Ancient Woodland to the south. Other than limited pedestrian footpaths at either end of Wandleys Lane there is no continuous dedicated footpath. There is an absence of light

columns along the whole of the lane and this is continued along all of West Walberton Lane, which adjoins Wandleys Lane to the east.

## REPRESENTATIONS

Walberton Parish Council - Objection for the following reasons:

Detrimental impact on the character of the countryside, unsustainable development, highways safety and traffic generation, increase risk of flooding,

96 letters of public representation objecting on the grounds of:

- Concerns with accuracy of transport assessment and data used.
- Increased traffic and congestions.
- Turning from West Walberton Lane to Wandleys Lane has poor visibility.
- Concerns for pedestrian safety
- Pedestrian access and infrastructure is poor and there is no pavement on Wandleys Lane
- Conflict with other road users: cyclists, walkers, horse riders etc.
- Increased noise and dust from construction.
- The location of the development is unsustainable and far from local services.
- Impact on the rural character of the area.
- Local services such as GPs, dentists and schools are overcapacity.
- Water and sewage networks are overcapacity.
- Increased light and noise pollution will impact people and wildlife (esp. bats)
- Flood risk and surface water concerns.
- Site is higher than surrounding land. Dwellings will overlook existing dwellings even if they are only two storey
- Pollution of the chalk stream in Wandleys Copse, this risk is increased by the placement of the SuDS.
- Housing is too dense.
- Impact an nearby ancient woodland and the habitats/wildlife within it.
- Impact on soils/Loss of Grade 3 agricultural land.
- Outside the Built Up Area Boundary.
- Greenfield site.
- Impacts on wildlife and protected species.
- The Forestry Commission has not been consulted.
- Sussex Wildlife Trust objection due to the presence of barbastelle bats and proximity to the SAC
- Wandleys Lane is designated as an Ancient Lane by the Walberton Neighbourhood Plan
- The design of the houses is out of character.
- Potential disturbance of the bat roosts provided by Dandara.
- Development would begin to fill in the gaps between Walberton and Barnham, causing the villages to merge.
- Removal of mature trees.
- TPO trees are present on site.
- Site is a habitat for great-crested newts.
- Proposed open space with LAP/LEAP is out of character.
- Presence of archaeological deposits.
- Houses will be unaffordable.

57 letters of public representation supporting the proposal on the grounds of:-

- Development will provide much needed housing



- There is provision of affordable housing
- Open spaces, play spaces, footpaths and allotments are provided
- It will help to increase home ownership
- The development would provide jobs in the area.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted. Any representations relating to material planning considerations are addressed in the Conclusions section of this report.

**CONSULTATIONS**

**CONSULTATION RESPONSES RECEIVED:**

National Highways - Holding objection until 30 May 2024. Concern with impact on SRN (strategic road network) particularly the A27 near Fontwell. Issues to be addressed include policy context, collision analysis, traffic surveys, trip rates and trip generation, committed development, junction modelling assessments and assessment scenarios.

WSCC Highways - No objections subject to conditions and S106 contributions likely, but further comments to be provided once the issues raised by National Highways have been resolved.

Leisure and Greenspace - No objections subject to further details to be considered at reserved matters stage.

Trees - Holding objection. The principle of developing the site can be achieved without undue detriment to the higher value trees but sympathetic reconfiguration of the access is needed.

Ecology - No objection subject to securing biodiversity mitigation and enhancement measures.

Arun Drainage Engineers - No objection subject to conditions.

Environmental Health - No objection subject to conditions (Air Quality, Lighting, Working Hours, CMP, Contaminated Land)

Lead Local Flood Authority (LLFA) - No objection subject to conditions.

Southern Water - No objections subject to condition.

Archaeology - No objections subject to condition (WSI).

South Downs National Park Authority - Neither objects nor support the proposal. External lighting is encouraged to take guidance from the Dark Night Skies Technical Advice Note.

West Sussex Fire and Rescue Response - Advice regarding imposition of a condition for provision of a fire hydrant.

Natural England - No objection.

Sussex Police - Comments that consideration should be given to Crime Prevention Through Environmental Design (CPTED) and Secure By Design (SBD) standards.

WSCC as the Local Education Authority - Objected to the application as there are not sufficient spaces within secondary schools within the area to accommodate new pupils. As an interim solution, WSCC require transport contributions to cover costs to transport pupils from Arun District to alternative secondary schools within West Sussex which cannot be covered by CIL payments. A s106 contribution is sought from WSCC Education for school transport to mitigate the impacts of the proposed development upon Education.

NHS Sussex - No objection subject to S106 contribution of £144,665.00

#### **COMMENTS ON CONSULTATION RESPONSES:**

Comments noted and are considered in the conclusions section of the report.

<b>POLICY CONTEXT</b>
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Designation applicable to site:

Outside of built up area boundary (BUAB)

Grade 3b agricultural land

Within the Lidsey Water Water Treatment Works Catchment Area

#### **DEVELOPMENT PLAN POLICIES**

Arun Local Plan 2011 - 2031:

AHSP2AH SP2 Affordable Housing

INFSP1INF SP1 Infrastructure provision and implementation

CSP1C SP1 Countryside

DDM1D DM1 Aspects of form and design quality

DDM2D DM2 Internal space standards

DSP1D SP1 Design

ECCSP2ECC SP2 Energy and climate change mitigation

ENVDM4ENV DM4 Protection of trees

ENVDM5ENV DM5 Development and biodiversity

QESP1QE SP1 Quality of the Environment

SDSP3SD SP3 Gaps Between Settlements

SODM1SO DM1 Soils

TSP1T SP1 Transport and Development

WDM1W DM1 Water supply and quality

#### **PLANNING POLICY GUIDANCE:**

NPPF National Planning Policy Framework (Dec 2023)

NPPG National Planning Practice Guidance

#### **SUPPLEMENTARY POLICY GUIDANCE:**

SPD1 Open Space & Recreation Standards

Arun Design Guide

#### **DEVELOPMENT PLAN POLICIES**

<b>POLICY COMMENTARY</b>
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The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood

Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is not considered to comply with the relevant development plan policies in that it is unrestricted residential development located outside of the Development Plan defined built up area boundary of Walberton in an area of countryside, which will result in unacceptable harm to the existing character and appearance of the area. In the absence of a completed section 106 agreement the development also does not provide affordable housing in accordance with ALP Policies.

**OTHER MATERIAL CONSIDERATIONS**

There are material considerations that weigh in favour of the proposal, which are discussed in the Planning Balance section towards the end of this report. However, these are not considered to be sufficient to outweigh the conflict with the development plan, namely the harm to the rural character of the area that a residential development of up to 95 houses would give rise to.

**CONCLUSIONS**

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Walberton Neighbourhood Development Plan made in 2021 ("WNDP") and the West Sussex Waste and Minerals Plans.

However, section 38 (5) of the Planning and Compulsory Purchase Act 2004 states: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Any conflict between the current WNDP and the ALP, should therefore be resolved in favour of the latter. The most relevant development policies in the Local Plan (C SP1) have reduced weight as Arun cannot demonstrate an adequate supply of housing land (currently only 4.17 years).

Having regard to Policy SD SP2 of the adopted Arun Local Plan, and Policy HP1 of the 2021 Walberton Neighbourhood Plan, the sites lies outside the Built Up Area Boundary of Walberton (within which development should be focused) and instead is defined as being located in the countryside under the provisions of Policy C SP1 of the adopted Arun Local Plan, where development will only be permitted for a defined list of countryside uses.

Policy HP1 of the Walberton NP relates to the Built Up Area Boundary (BUAB) and states proposals for development outside of the BUAB, that do not accord with the development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure.

The provisions of Policy SD SP2 and Policy C SP1 therefore preclude residential development on the application site. The principle of development on the site is contrary to the development plan.

In January 2024, the Council republished its Authority Monitoring Report (AMR). This states the HLS is now at 4.17 years. The HDT results for the district have also been below 70% since 2018. Given this position the policies most relevant to the determination of the application have reduced weight.

Paragraphs 10 and 11 confirm that at the heart of the NPPF is the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay. Alternatively, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Footnote 8 confirms that, for applications involving the provision of housing, this includes situations where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 77), or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 11d of the NPPF requires the LPA to engage a 'tilted balance' and to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so when weighed against the NPPF policies as a whole.

Paragraph 14 of the NPPF states that in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if two specific criteria apply. In this instance the WNDP meets criterion a, as the WNDP became part of the development plan less than 5 years ago. criterion b requires that the neighbourhood plan (in this case WNDP) contains policies and allocations to meet its identified housing requirement.

The Examiner's Report for the WNDP was published less than 3 years ago, and, in the absence of a more up to date indicative housing requirement for Walberton, it is entirely reasonable to accept the Inspector's figures of: an indicative housing requirement figure of at least 748 units; and a net additional contribution of 51 units from non-strategic allocations.

The authority has updated this calculation and, in fact, the additional WNDP allocations equate to a net increase of 56 dwellings. This means that the total of all completions, commitments, NDP allocations, strategic sites and other sites is  $697 + 56 = 753$  dwellings, against an indicative housing requirement of 748.

As such, while paragraph 11d does apply, and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14 it is considered that paragraph 14 also applies and that the adverse impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. This will be considered in the planning balance section later in this report.

## **SUSTAINABLE DEVELOPMENT**

The site is approximately 1.7km from the centre of Walberton Village to the southeast with Barnham post office and local shops similarly approximately 1.7km to the southwest. As the site is not a town centre

location it is generally accepted that distances of 400m-1200m for day to day journeys and in respect of school/work commuting, 500m-2000m are considered sustainable.

All of the following distances are measured from the position of the proposed access onto Wandleys Lane and then using existing local roads.

The nearest schools would be:

- Walberton & Binsted Primary School -1.9km
- Ormiston Six Villages Academy, Westergate - 2.1km
- St Phillip Howard, Catholic School (6th Form), Barnham - 3.7km

The 228 Bus to Ormiston Six Villages Academy and 85A (88 also operates) which operates to Walberton and Barnham from Barnfield bus stop which is approximately a 440m walk from the site.

While the site is not considered to be well served by public transport and the distances are not attractive as a walking option, given the proposed upgrade of the north part of Wandleys Lane to include a footpath as part of a potential S106 agreement and the potential pedestrian links to and through the approved Dandara site to the north, it is concluded that the overall sustainability of the site is adequate. It should also be noted that the Dandara site includes provision of public open space, a multi-use games area, retail, allotments, community space and light industrial uses.

Paragraph 8 of the NPPF sets out three objectives in relation to sustainable development comprising social, environmental, and economic. Taking each in turn, the proposal would provide some social gains resulting from the provision of affordable housing; the proposed mix of house types; increase in accessible open space and the increased use of local services and facilities. However, there is no S106 agreement in place to ensure the affordable housing and play space is brought forward.

In terms of environmental aspect of the proposal such as impacts on trees and impacts upon the strategic highway network these are considered in detail in the report below. It is considered that there are adverse environmental impacts such as the urbanisation of Wandleys Lane from the proposed road widening. It is also noted that a further urbanising effect will be the illumination of the lane.

Taking the above into consideration, environmental gains would be provided in this scheme through the proposed biodiversity net gain as well as enhanced landscaping with additional planting. There would be limited harm to the environment through the loss of the open and undeveloped nature of the site, due to the degree of containment and retention of the most important landscape features which would screen it from wider view. However, this is discussed in more detail in the report below.

Lastly there would be some, albeit limited, economic benefits of the scheme through the creation of construction jobs, increased local spending, and broader benefits of housebuilding contributing to wider economic recovery.

## AGRICULTURAL LAND

ALP policy SO DM1 states that unless designated by this Plan or a Neighbourhood Development Plan, the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect land in the long term. Grades 1, 2 and 3a are considered to be Best and Most Versatile Agricultural land (BMVAL).

The site is Grade 3b Agricultural Land, as such the development would not lead to a loss of grade 1, 2 or

3a agricultural land (BMVAL) and is compliant with ALP policy SO DM1.

## CHARACTER AND VISUAL AMENITY

Policy D DM1 of the Arun Local Plan requires the Council seek to make the best possible use of land by reflecting or improving on the character of the site and the surrounding area. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. New housing should make efficient use of land while providing a mix of dwelling types and maintaining character & local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development keep within the general confines of the overall character of a locality. Arun LP policy D SP1 "Design" requires development to make efficient use of land and reflect local character.

Policy VE13 of the WNDP states that development proposals should respect and, wherever possible, enhance distinctive views and vistas by ensuring that the visual impact on these views is carefully and sympathetically controlled.

The National Design Guide (NDG) is a material consideration in the determination of this application. It states that achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials, and their detailing. It sets out ten characteristics of beautiful, enduring, and successful places: Context, Identity, Built Form, Movement, Nature, Public Spaces, Uses, Homes & Buildings, Resources and Lifespan. The applicant provided a supplemental Design Statement which responds to these headings and concludes the scheme will blend harmoniously in the surrounding area providing high quality, well designed dwellings and spaces for the future residents.

The Arun Design Guide suggests a density of 15-25 for detached/semi-detached houses in village locations and states density should decrease with distance from the centre of a settlement, to ensure development relates sensitively to its setting and addresses edges of the site in a positive way. The site density of approximately 14 dwellings per ha is considered appropriate to the character of the site and nearby settlement. The layout is indicative at this stage however it would appear to meet all other policy requirements. This matter would be subject to further consideration at the detailed design stage.

The immediate locality is considered to be rural in character. The development would lead to an urbanising impact on Wandleys Lane, through the proposed upgrade to the lane. The lane would change from a rural lane to an engineered urban road. It must however be considered that the character of the lane would change nonetheless as a result of the Dandara development to the north.

Given the exiting rural nature of the site there would undoubtedly be significant change in this character and an urbanising effect through the introduction of 95 dwellings, roads and other infrastructure and domestic paraphernalia. It is acknowledged, as set out in the Landscape and Visual Impacts Assessment (LVIA) submitted, that the site is not constrained by any landscape designations, nor would it have harmful impacts upon view into or out of the South Downs National Park. The site is relatively well contained by established mature tree and shrub cover along its boundaries with the ancient woodland forming a significant barrier to the south.

The illustrative masterplan indicates a landscape led development, with scope for significant additional planting which would further screen the development from view within the wider countryside. The LVIA states that views of the site are mainly limited to nearby properties close to the boundary of the site and at proposed access points.

Therefore, while there would be harm to the open countryside through the loss of the undeveloped

nature of the site and introduction of urban built form, the well screened nature of the site reduced this harm to by limiting the impact to the immediate area surrounding the site. The addition of a new engineered access and improvements to Wandleys Lane would further exacerbate the urbanising of Wandleys Lane cumulatively with the Dandara site to the north. This harm must be weighed in the planning balance.

#### LIGHT POLLUTION

WNDP policy VE8 'Unlit village' status states: "Development proposals which detract from the unlit environments of the Parish will not be supported. New lighting will be required to conform to the highest standard of light pollution restrictions in force at the time. Security and other outside lighting on private and public premises will be restricted or regulated to be neighbourly in its use."

The development of 95 dwellings would introduce lighting to a lane that currently derives its character from its unlit nature. The previous application was refused, for this reason inter alia. This application is accompanied by an External Lighting Design Statement which demonstrates how suitable levels of lighting would be provided for amenity, safety and navigation whilst avoiding significantly harmful impacts upon the rural surroundings of the site.

While it is not disputed that the development would introduce new sources of external lighting, the External Lighting Design Statement appropriately sets out how this would be mitigated to a negligible or low level through appropriate design lighting scheme as well as additional strategic planting throughout the boundaries of the site to further limit light spill to the surrounding area. As such it is considered that a proposal could be designed to comply with WNDP policy VE8 under a subsequent reserved matters submission.

#### TRAFFIC, ROAD SAFETY & PARKING

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. It states schemes must explain how development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter.

T SP1 states proposals must incorporate appropriate levels of parking taking into consideration the impact of development on on-street parking. Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities, and contribute towards provision of a joined-up cycle network and Public Rights of Way network.

Para 114 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 111 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

The advice of WSCC Highways is summarised above. They are satisfied the proposal will not result in an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. The proposal is not contrary to the NPPF (para 111), and there are no transport grounds to resist the proposal from a local highway perspective.

The proposed access is from Wandleys Lane. This includes a new crossing to connect the shared footway and cycleway opposite. The location of this access requires a small number of Category B trees needing to be removed. From a highways perspective the access and improvements to Wandleys Lane are deemed acceptable.

Due to the outline nature of the application the parking provision is not detailed, however owing to the quantum of development and size of the development site it is likely that parking provision in accordance with Arun District Council's Parking Standards Supplementary Planning Document (SPD) could be achieved. Similarly, the application documents indicate a policy compliant level of cycle storage and electric vehicle charging points would be provided. These matters would be considered fully at the reserved matters stage.

The proposals broadly accord with policies in the Arun Local Plan and Walberton Neighbourhood Plan in respect of highways and parking.

National Highways (NH) have maintained a holding objection to the application with regards to the impact upon the strategic road network, particularly the A27 near Fontwell. NH have had protracted discussions with the applicant and their transport consultant to try to resolve the issues. NH has on several occasions requested additional information which the applicant has supplied.

Nevertheless, at the time of writing these discussions remain ongoing and the holding objection from National Highways remains in place. Therefore, at present the LPA does not have sufficient information to be satisfied that the proposed development would not have unacceptable impacts upon the strategic road network. This would need to be weighed into the overall planning balance,

## **BIODIVERSITY**

Policy VE10 of the WNDP relates to biodiversity corridors which states proposals that have a positive impact on the local ecology will be encouraged, subject to other policy constraints. New development in or immediately adjacent to the biodiversity corridors will only be supported where it can be clearly demonstrated the proposals will not give rise to any significant harm to the integrity or function of the biodiversity corridors.

Policy ENV SP1 confirms that Arun District Council will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites. Where possible it shall also promote the creation of new areas for habitats and species.

The applicant has submitted the following information including:

- Site Location Plan (ECE Architecture, November 2022);
- eDNA Survey Note (The Ecology Partnership, 23rd November 2022);
- Indicative Site Layout (ECE Architecture, April 2023);
- Indicative Landscape Masterplan (Allen Pyke, April 2023);
- Technical Note to Inform Habitat Regulations Assessment (The Ecology Partnership, April 2023);
- Ecological Impact assessment (The Ecology Partnership, April 2023);
- Updated Preliminary Ecological Appraisal (The Ecology Partnership, April 2023);
- Reptile Survey 2022 (The Ecology Partnership, April 2023);
- Updated Dormouse Survey 2022 (The Ecology Partnership, April 2023);
- Bat Activity Surveys 2022 (The Ecology Partnership, April 2023);
- External Lighting Design Statement (Lumineer, April 2023);
- Biodiversity Net Gain Assessment (The Ecology Partnership, April 2023);



- Biodiversity Metric 4.0 Spreadsheet (No date given);
- Natural England Consultation Response (ref: 434468, 1st June 2023); and
- eDNA Testing Great Crested Newts (The Ecology Partnership, July 2023).

Dormice were found to be present on the site. A European Protected Species (EPS) licence would be required, and as set out within the EclA, the licence application will include the need for mitigation planting, which will additionally benefit bats utilising the site. This matter would be secured by condition.

Surveys revealed a good population of Slow worm on the site, and low population of grass snake. Reptiles would be retained on site with enhanced hibernacula provided. Details could be secured through condition if outline permission were granted.

No badgers were identified on, or nearby, the site.

The proximity of the ancient woodland (Wandleys Copse) to the south of the site is a priority habitat necessitates a minimum 15m buffer, which also forms part of the dormouse mitigation strategy. The Ecologist is satisfied with this buffer in place there would be no adverse effects upon this priority habitat.

The submitted Biodiversity Net Gain Assessment (The Ecology Partnership, April 2023) has calculated a net gain in both habitat (+10.71%) and hedgerow (+26.20) units. This on site net gain could be secured through appropriately worded condition.

Several bespoke biodiversity enhancements are suggested including provision of integrated bat and bird boxes, Hedgehog friendly fencing, Hedgehog houses, invertebrate hotels and species rich, native hedgerow planting. All of these matters could be secured by way of condition.

The Technical Note to inform Habitat Regulations Assessment (The Ecology Partnership, April 2023) identifies that the site is 11km from the Singleton and Cocking Tunnels Special Area of Conservation (SAC). The Ecologist is satisfied that through the protection of the majority of the boundary features, the scale of the development is such that no severance or significant impacts on Barbastelle bats are predicted. The Ecologist recommends that, with mitigation secured, the LPA can record that the development can avoid adverse effects on integrity.

Due to the presence of the adjacent ancient woodland, recent nearby records for Barbastelle and Bechsteins bats and a nearby Barbastelle maternity roost (500 metres from site) any external artificial lighting could negatively impact bats utilising the site. An increase in artificial light would negatively impact foraging, commuting and roosting bats. A detailed lighting strategy could be secured by condition of any consent.

Subject to mitigation and enhancement measures, the development would contribute in the 'preservation, restoration and enhancement of biodiversity and the natural environment' in accordance with Policy ENV SP1 of the Arun Local Plan. It would avoid adverse impacts on designated sites of biodiversity or geological importance as required by Policy ENV DM1 and would 'incorporate elements of biodiversity minimising adverse impacts on existing habitats' in accordance with Policy ENV DM5.

## TREES

Policy VE3 of the Walberton Neighbourhood Plan states that development will be permitted where it can be demonstrated that trees and hedgerows contributing to local amenity will not be damaged or destroyed and that development that damages or results in the loss of ancient trees/ trees of arboricultural and amenity value or loss of hedgerows or significant ground cover and habitat will be resisted.

ALP policy D DM1 states development is expected to incorporate existing and new tree planting as an integral part of proposals. Policy ENV DM4 of the Arun Local Plan requires development to protect and manage existing trees wherever possible. It also requires development to take a comprehensive view of tree issues at the early stages of the design process.

To facilitate access to the site the applicant proposed to remove two Ash trees (T35 & T36), a Field Maple group (G16), and sections of Hazel (G15). ADC Tree Officer has objected to the application due to the loss of identified trees to facilitate access onto Wandleys Lane. The tree officer considered that the removal of the group of Ash Trees to facilitate access and pedestrian enhancements to the highway is unsympathetic of their contribution to local character. The tree officer notes that they consider that the removal of G14 (predominantly non-native laurel) would be an acceptable alternative. If primary road and footway access switched positions, then it seems possible to retain more higher value trees and character.

It is acknowledged that the proposed access is in the same location as considered under the previous refusal (WA/73/17/OUT) and although this application was refused, no specific issues were identified with the location of the access or the loss of these trees at that time.

An arboriculture addendum (Technical Note TN01) was submitted in response to the Tree Officer comments which considers two alternative locations for the access. Moving the access further to the south would necessitate the removal of T33 (English Oak). Moving the access to the northeast would ensure the retention of T35 and T36 but would necessitate the removal of more of G15 (Hazel) to facilitate the necessary visibility splays. The applicant's arboricultural consultant considers that the current location of the access, whilst resulting in the loss of 2 category B Ash trees is the best option in arboricultural terms, protecting T33 (English Oak) and retaining the maximum amount of tree cover along the frontage of the site. The Technical Note also highlights other non-arboricultural considerations which have fed into the decision to locate the access as proposed. Locating the access further to the northeast would result in potential conflict between vehicular traffic and the pedestrian and cycle access at the Dandara site. Similarly locating the access further to the south could result in more impact to the residential property 'Lashburn'.

Given the status of the application as outline considering only access, with all other matters reserved, the Tree Officer also made some specific comments for areas to improve including: design consideration given to location attenuation basin east of plots 55-56 specific as it abuts RPA of T18 & T19 (Category A TPO Oak trees) which would not be acceptable; an extension of the 15m buffer Ancient Woodland Buffer is justified and required to secure positive outcomes for the woodland habitat; and the proposed planting with native trees and shrubs within areas for ecological enhancement is supported but must be submitted for consideration and approval within a detailed soft landscape strategy.

It is noted the Illustrative Landscape Masterplan is positive from an arboricultural perspective. As proposals around layout evolves through reserved matters, it would be expected the design would uphold the higher-level development principles set out in the Open Space SPD and Arun Design Guide E.02 Landscape Structures & Trees.

Presently, as set out in the Tree Officer's objection the proposal fails to protect trees which contribute to local amenity and this loss of trees would not be outweighed by the benefits of the proposal contrary to ALP policies D DM1, ENV DM4 and WNDP policy VE3.

## HERITAGE

Policy VE4 states that proposals that adversely affect the setting of the two Conservation Areas will not

be supported. New development must protect the open/rural character of the Conservation Area's setting and sustain or enhance the visual connections between the village's core and its rural hinterland, including longer views to the South Downs, which contribute to the character of the Conservation Area.

Policy HER SP1 seeks to conserve the historic environment through protecting designated and non-designated heritage assets. It states that developments that prejudice the conservation of the assets or their setting will be refused. Policy HER DM3 outlines how the Council will preserve and enhance the character and appearance of Conservation Areas.

Paragraph 203 of the NPPF requires decision taking to take account of the desirability of preserving the significance of a heritage asset and the positive contribution that the conservation of the asset can make to sustainable communities. Paras 205-206 set out how the significance of an asset will be assessed and para 207-208 confirm how harm to assets will be quantified.

A Heritage Statement has been submitted to fulfil the requirements of paragraph 200 of the NPPF. The site does not contain any designated or non-designated heritage assets. The site is within 500m of the grade II Listed 'Goodacres' and the non-designated heritage asset 'The Smithy'. The heritage statement considers both the assets significance and their setting and concludes that the proposed development would have no impact on either their significance or setting.

As such the proposal results in no adverse impacts upon both designated and non-designated heritage assets in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paras 201 and 206 of the NPPF, ALP policies HER SP1, HER DM1 and WNDP policy VE4.

#### ARCHAEOLOGY

ALP Policy HER DM6 requires development within sites of archaeological interest to be supported by an archaeological assessment to demonstrate that there would be no harm to the interest of the site.

The application submission includes an archaeological report which confirms that archaeology constraints would not be grounds for refusal of the application. While the site does have potential to contain remains of interest this could adequately be investigated through geophysical survey and archaeological and geoarchaeological evaluation appropriately. ADC's archaeology consultee has reviewed the assessment and raised no objection to the development subject to the inclusion of a condition to secure a programme of archaeological work.

#### RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Arun Design Guide sets out guidance on garden depths and interface distances between houses:

- Back to Back: min. 21m between habitable rooms of properties or to existing buildings;
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property;
- Front to Front: min. 16m between habitable rooms of properties facing each other; and
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

Given the outline nature of the proposal and the detail of the indicative proposed plans it is not considered possible to make a detailed assessment of residential amenity at this stage. However, considering the size of the site, quantum of development and indicative plans there is considered to be adequate space within the confines of the site to design a scheme which would accord with the

requirements of ALP policies D DM1 and QE SP1, and the Arun Design Guide.

#### AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per ALP policy AH SP2. The policy states affordable housing should be visually indistinguishable from market housing with large groupings of single tenure dwellings or property types avoided. Affordable housing units shall be permitted in small clusters throughout development schemes.

A total of 29 dwellings are proposed to be provided as affordable (30%). The proposed development comprises the following affordable housing mix:

- 1 bed dwellings (35%);
- 2 bed dwellings (45%);
- 3 bed dwellings (17%); and
- 4 bed dwellings (3%).

The proposed mix broadly reflects the indicative mix in AH SP2, albeit over-providing 2 bed units and a slight under provision of 4 bed units. The applicant proposes a tenure split of 75% affordable rent and 25% intermediate dwellings, which accords with the requirements of policy AH SP2.

Therefore, should a S106 agreement be made the proposal would accord with ALP policy AH SP2. However, given the absence of a completed s106 agreement at this time, the proposal is currently in conflict with ALP policy AH SP2.

#### HOMES FOR OLDER PEOPLE:

Arun DC agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted policy or a supplementary planning document but is considered to have some weight as a material planning consideration. It is supported by references in ALP policies D DM1 & D DM2. This requires at least 48 of the homes (50%) are designed to the M4(2) standard, and that 4 are designed to meet M4(3) i.e. be wheelchair accessible.

Given the outline nature of the proposal and the detail of the indicative proposed plans it is not considered possible to make a detailed assessment of this element at this stage, but it would certainly be possible to design a scheme that is compliant with policy.

#### FLOOD RISK & SURFACE WATER DRAINAGE:

ALP policy W DM3 requires all development identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process. Policy VE7 of the Walberton Neighbourhood Plan states that new development should aim to reduce the overall level of flood risk through a series of criteria.

The application site is located in Flood Zone 1 and as such is a low risk from both fluvial and pluvial flooding. A combined Flood Risk Assessment and Drainage Strategy was submitted with the application. During the course of the application a Technical Note (TN001 Rev 2) was submitted to address issues raised by both the LLFA and Arun Drainage Engineers.

Following a further round of consultation with the LLFA and Arun Drainage Engineers no objections have been raised with the FRA and Drainage Strategy proposed subject to the imposition of conditions.

Overall, the proposed flood risk assessment and drainage strategy are considered to be appropriate for the site, for the proposed development and adequately demonstrate the site is safe to develop with regard to flood risk and surface water in accordance with national and local policy.

#### FOUL DRAINAGE:

ALP policy W DM1 states that all major developments must demonstrate that adequate drainage capacity exists or can be provided as part of the development. Where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development. Policy W DM1 also states that a drainage impact assessment is required for all major development.

The foul drainage strategy shows a gravity fed system to a pumping station in the southeast of the site which would then connect to the public foul sewer located in Wandleys Lane.

Southern Water have considered the proposal and raised no objection to the application. While SW have not specifically raised capacity issues in their response, the applicant has been in early discussions with SW who have confirmed there are capacity issues within the Lidsey Catchment Area. Nonetheless it is believed this could adequately be dealt with through the use of an appropriately worded condition. Subject to this, the proposal would accord with Policy W DM1 of the Arun Local Plan.

#### ENERGY AND CLIMATE CHANGE:

Arun LP policy ECC SP2 requires that all new residential and commercial development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

The submitted Energy and Sustainability Strategy Report confirms that the proposal can comply with the requirement of policies ECC SP and ECC SP2 of the Arun LP. Air source heat pumps are proposed on all dwellings and water usage is anticipated to be below the 110L per person per day threshold. These measures could be secured via planning condition.

#### PUBLIC OPEN SPACE & PLAY:

Arun LP policy OSR DM1 requires housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. The Councils SPD "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 6,686 sqm of Public Open Space (POS) and a separate play provision of an onsite of 1,150 sqm as well as LEAP and LAP provisions.

Open space is provided throughout the site to a total of 22,411 sqm. This is broken down to 2,115 sqm community orchard, 792 sqm allotment space, 13,000 sqm ecological enhancement areas, 893 sqm play provision containing a LEAP and LAP, attenuation basins totalling 2,311 sqm. The total area of public open space provided (removing all ecological and attenuation features) would be 7,100 sqm. This provision is significantly in excess of the requirement of ALP policy OSR DM1 and the open space SPD. The submission notes that the allotment provision falls short of the requirements but that the community orchard provides an alternative means of community growing provision.

The attenuation basins proposed which has a dual purpose of encouraging wildlife and to provide an attractive feature for future and existing residents as well as forming part of the sites sustainable drainage system.

The large amounts of open areas provide significant planting opportunities which would be of both a benefit to local wildlife but also serve to enhance landscape buffers to screen the built form proposed.

The schemes provision of open space and play space is above that required Arun LP policy OSR DM1 and the Councils SPD and subject to appropriate conditions the landscape scheme would result in a high-quality development.

## MINERALS

The applicants Planning Statement set out that while the site is within the Sharp Sand and Gravel Mineral Safeguarding Area the site would not be suitable for the full prior extraction of the safeguarded mineral resource owing to the potential unacceptable impacts this would cause on the amenity of nearby residential receptors.

## SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 requires development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and the existing community. Any off-site provision or financial contribution must meet the statutory tests for planning obligations required by Regulation 122 of the Community Infrastructure Regulations 2010.

The Parish Council would be provided 25% of the CIL receipts to spend on their own projects. These payments go towards providing the infrastructure that the district needs to support existing and future development. On this basis, there is no conflict with ALP policy INF SP1.

Affordable housing provision would also be required to be secured via a planning obligation.

On site provision of open space and play equipment could be secured via a planning condition.

WSCC as the Local Education Authority have objected to the application as there are not sufficient spaces within secondary schools within the area to accommodate new pupils. As an interim solution, WSCC require transport contributions to cover costs to transport pupils from Arun District to alternative secondary schools within West Sussex which cannot be covered by CIL payments. A s106 contribution is sought from WSCC Education for school transport to mitigate the impacts of the proposed development upon Education.

NHS Sussex has made a request for a contribution of £144,665.00 towards the new primary care facility at The Croft, Eastergate. The council operates an adopted CIL Charging Schedule and, as such, contributions towards health care provision can be met through CIL. Therefore, the NHS Sussex request for a contribution through a s106 agreement is not considered to meet the statutory tests and has not been sought by officers in this instance.

A S106 agreement to secure the abovementioned obligations to provide affordable housing and an Education Transport Contribution has not been completed and the proposal is therefore unacceptable in this regard.

## SUMMARY & PLANNING BALANCE

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 4.17-years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered. This states where there are no relevant

Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Paragraph 14 of the NPPF states that in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits if two specific criteria apply. As set out in the principle of development section of this report both criteria a and b are considered to be met.

As such, while paragraph 11d does apply and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14, it is considered that paragraph 14 also applies and that the adverse impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

In respect of the paragraph 11 d part (ii) test, the report identifies that the proposal is in conflict with the council's policies in respect of: development outside of the built up area boundary; impacts upon trees; impacts upon the strategic road network; impacts upon the character and appearance of the area, and inadequate provision for housing and education infrastructure.

On balance, the site is considered to be sustainable, and the scheme will result in benefits to the local and wider area such as new housing (including affordable housing), the creation/retention of construction jobs, spending by future residents on local shops/services, infrastructure improvements across the district and biodiversity enhancements.

The weight to be applied to the contribution of housing development to the HLS is considered to be significant, given the LPA's HLS shortfall. While the provision of 30% affordable housing is a benefit of the scheme this is a policy requirement and, as such, is only given limited weight. Similarly limited weight is given to the economic benefits of the scheme, limited weight to the environmental benefits of the scheme such as biodiversity enhancements, and neutral weight to the social benefits of the scheme.

Significant weight is also given to the conflicts with policies with regard to impacts upon the Strategic Road Network.

The wording of NPPF Paragraph 14 suggests that there would only be very limited circumstances which would result in the adverse impacts of conflict with the neighbourhood plan being outweighed.

Weighing all matters together, taking into consideration the tilted balance as required by paragraph 11d, the provisions of paragraph 14 and the conflict with the Walberton Neighbourhood Development Plan, the adverse impact of allowing development that conflicts with the neighbourhood plan is considered to significantly and demonstrably outweigh the benefits. Accordingly, it is recommended that the application be refused.

#### **HUMAN RIGHTS ACT**

Human Rights Act:

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

#### RECOMMENDATION

REFUSE

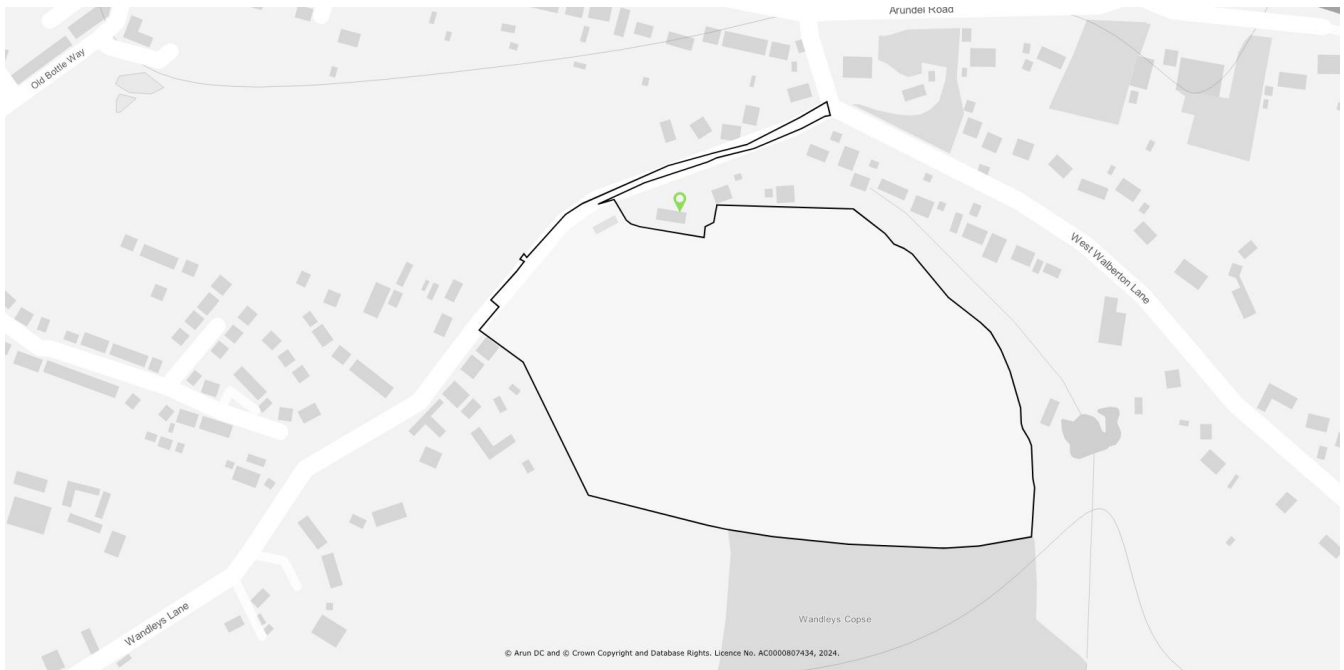
- 1 By virtue of its location outside a defined built up area boundary in an area of countryside, the development is contrary to policy HP1 of the Walberton Neighbourhood Development Plan, the National Planning Policy Framework and Policies C SP1, SD SP1, SD SP1a and SD SP2 of the Arun Local Plan.
- 2 In the absence of a signed Section 106 legal agreement, the proposed development makes no contribution towards affordable housing or education transport in conflict with policies AH SP2, ENV DM2, INF SP1, INF SP2, OSR DM1 of the Arun Local Plan and the National Planning Policy Framework.
- 3 Insufficient information has been submitted to demonstrate the proposal would not have harmful impacts upon the strategic road network contrary to policies T SP3 and the National Planning Policy Framework.
- 4 The access to the proposal would result in the loss of category B trees which have important amenity value. The loss of these trees is not outweighed by the benefits of the scheme and as such the proposal is contrary to policy ENV DM4 of the Arun Local Plan.
- 5 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

#### BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)



**WA/35/23/OUT - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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## PLANNING APPLICATION REPORT

**REF NO:** Y/68/23/PL

**LOCATION:** Land West of Drove Lane  
Main Road  
Yapton

**PROPOSAL:** Erection of 20 dwellings (including 6 affordable units) with new access, open space, landscaping, sustainable drainage, biodiversity mitigation and associated works. This application may affect the character and appearance of the Main Road/Church Rd, Yapton Conservation area, is a Departure from the Development Plan and is in CIL Zone 3 and CIL Liable as new dwellings.(Resubmission of Y/149/22/PL).

### SITE AND SURROUNDINGS

#### DESCRIPTION OF APPLICATION

This application is a resubmission of Y/149/22/PL which sought permission for 20 dwellings (including 6 affordable units) with new access, open space, landscaping, sustainable drainage, biodiversity mitigation, and associated works. That application was refused for the following reasons:

1. The proposed houses, by reason of design, appearance and materials are inappropriate in this edge of settlement location and will be harmful to the character and vernacular of the immediate area and by association with the setting of the Main Road/Church Road Conservation Area, the setting of the locally listed buildings to the north and the setting of the former Portsmouth and Arundel Canal to the south in conflict with policies D DM1, D SP1, HER SP1 and HER DM3 of the Arun Local Plan, the Arun Design Guide and the NPPF.
2. Insufficient information has been submitted to show that the proposed number of units, the landscaping and layout are implementable without detrimentally impacting surface water drainage for the site. The submitted Flood Risk Assessment and Drainage Strategy does not meet the stated design requirements. The proposal conflicts with Arun Local Plan Policy W DM3, West Sussex surface water design guidance and the NPPF.
3. In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision contrary to the aims and objectives of the NPPF (in particular paragraphs 63-65) and Policy AH SP2 of the Arun Local Plan.
4. In the absence of a signed s106 agreement, the development makes no provision for the future monitoring of a

Travel Plan contrary to the requirements of Policies T DM1 and T SP1 of the Arun Local Plan and paragraph 110 of the NPPF.

This application is essentially for the same scheme but there have been amendments to the design of the houses, and the layout to seek to better reflect the surrounding character to try to address the previous reason for refusal. The application also seeks to respond to the drainage concerns raised previously.

SITE AREA	1.45 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	13.8 dwellings per hectare.
TOPOGRAPHY	Predominantly flat but the site slopes from the Drove Lane (southeast) end (approx. 6m AOD) towards the northwest corner (approx. 3m AOD).
TREES	All trees are to the site boundaries, and none are TPO protected. The application proposes to remove a 9m high Elm on the road boundary in order to facilitate access.
BOUNDARY TREATMENT	Predominantly hedging and small trees.
SITE CHARACTERISTICS	Arable field surrounded by hedged boundaries with two field gates to Main Road. Part of the frontage (outside the site area) is occupied by a parking layby. There is a drainage ditch running just outside the north-western boundary.
CHARACTER OF LOCALITY	Predominantly rural albeit there are residential developments being constructed on nearby sites to the south and northeast. Agricultural land adjoins the north-western end and, beyond the line of the former Portsmouth & Arundel canal, to the southwest. The rectangular field to the southeast beyond Drove Lane (known as the Sheep Field) is in the Yapton Main Road Conservation Area. There are four locally listed houses and other dwellings on the opposite side of Main Road.

<b>RELEVANT SITE HISTORY</b>
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Y/149/22/PL	Erection of 20 dwellings (including 6 affordable units) with new access, open space, landscaping, sustainable drainage, biodiversity mitigation and associated works. This application is in CIL Zone 3 and is CIL liable as new dwellings and is a Departure from the Development Plan. The proposal may affect the setting of the Main Road/Church Road, Yapton Conservation Area.	Refused 04-04-23
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<b>REPRESENTATIONS</b>
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Yapton Parish Council (YPC) strongly object and have provided a 4-page objection letter available to

view on the website. In summary, their main points are:

- Strong reluctance at losing open agricultural land especially open space that is key to the setting of a Conservation Area and historic Portsmouth and Arundel Canal to non-designated housing development.
- Not an appropriate addition to Yapton's housing supply or a positive contribution to YPC's existing social fabric or environment placing future resident's wellbeing at risk.
- Loss of agricultural land.
- Outside the built-up area boundary designated in the Arun Local Plan and the Yapton Neighbourhood Plan and forms an important green edge to the village and former Portsmouth and Arundel Canal.
- The land is clearly identified as rural hinterland being physically separated by Drove Lane and 'Lambs Field'.
- This proposal is not Plan Led and places the local community's needs and infrastructure deficiencies as a low priority. Whilst 5-year housing supply is important it should not be the dominant factor determining the sustainability of a non-designated residential proposal outside the built-up area boundary.
- Yapton has contributed positively to Arun's housing requirement.
- Yapton first needs more infrastructure to support the existing new housing.
- The scheme is an isolated site with poor links to Yapton village and its facilities.
- The scheme fails to draw on or reflect the historic nature of the few linear/ribbon settlements which lie along this section of the B2233 in terms of density, scale, or vernacular. There appears a total disregard of the historic Portsmouth and Arundel Canal and its need for a genuine deep open landscaped setting to persevere and offset its historic importance.
- The increased traffic movements will conflict with existing traffic flows.
- There are no proposals to provide any footpaths or cycle ways to safely connect this satellite housing estate to Yapton village and its community facilities.
- Yapton Primary School remains oversubscribed with no immediate start date for its expansion plans. Until this has been accommodated no further housing should be allowed in the Parish.
- Grave concerns relating to flooding and continuous ongoing surface water flooding along this section of the B2233. The loss of this greenfield site to a built environment will exacerbate the flooding problem further.

30 third party representations have been received (multiple objections submitted under one address have been counted as one comment).

Over development/Infrastructure:

- No justification for the destruction of our village anymore.
- The village has been destroyed by continuous development over the last few years.
- Concerned about overdevelopment of the whole area putting so much pressure on traffic levels/pollution and also basic infrastructure e.g., schools, doctors, and dentists.
- Infrastructure is creaking, there are regular queues through the village.
- Beginning to see the impacts of overdevelopment - flooding, traffic, lack of infrastructure, no new schools, doctors, or shops. It is becoming a mess.
- More demands will be made on already stretched services in the area.
- No increase in transport services so all residents have no alternative but to use cars on roads that have not been upgraded.
- Traffic has increased significantly and it is getting difficult to travel at peak times.
- The village school is on a B road and for at least two hours a day the road is very dangerous to navigate either as pedestrians, cyclist, or driver and this can only get worse.
- Layby used for cottage parking.
- The B2132 (North End Road) is being used as a rat run between the A259 and the A27 further adding to the congestion and traffic jams through the village at peak times.

Flooding/Drainage:

- Adjacent to a historic flooding area which floods whenever there is a period of heavy rainfall.
- Flooding at beginning of North End Road and by Lake Lane level crossing.
- There is regular flooding in this and other parts of Yapton that are not being addressed.
- The drainage systems are not able to cope with the additional loads being applied to them.
- Flooding is becoming an increasing problem with climate change and this is going to be made worse with so many new developments.
- The continued flooding in winter in this area, has little opportunity to be resolved with continued construction with poor drainage.
- This year we had flooding on roads/footways and public footpaths as a result of development changing the hydrology and it needs sorting out before more development.
- No more building as the drainage cannot cope.
- The constant flooding and raw sewage coming out of drains within 50m of the planned housing estate, this causes the road to be blocked quite often for several days.

**Ecology:**

- There is little support for wildlife and planting is decorative not supportive of the environment.
- Our local wildlife and agricultural land is gradually being eliminated.

**Affordable Housing/Housing:**

- Quota has not been met in the village to meet the needs of people needing affordable housing.
- Too many houses yet to be sold.
- Too many unaffordable houses already.
- There are estate after estate everywhere and the countryside, fields and trees are being quickly replaced by bricks and mortar.

**General points:**

- The location is outside of the village development plan and is Grade A farming land.
- It encroaches on the scout hut that has been there for decades and will have a really negative impact on the activities that are carried out in the hut and surrounding grounds.
- Neighbourhood Plan has still not been approved because of this application.
- Just another greedy land grab.
- Village is not a village anymore - local peoples' lives a misery with all the building this has to stop.
- How are any new residents living on this estate going to access the local amenities when there is not a safe and accessible pathway to the shops and doctors.
- Land needed for food.
- This would lead to Yapton and Barnham no longer being separate villages.
- Already being subjected to 550 houses being built with the noise, dust and disruption and future traffic chaos.
- The Neighbourhood Plan is for the benefit of the inhabitants of Yapton not anyone who wants to build and destroy it. It is to protect the countryside.
- The amount of farmland being taken out of action will have a real impact on the amount of food that is grown.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted. These matters, where relevant planning considerations, are discussed in the conclusions section of this report.

<b>CONSULTATIONS</b>
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**CONSULTATION RESPONSES RECEIVED:**

ENVIRONMENT AGENCY: No objection to the proposal as submitted, subject to conditions.

NATIONAL HIGHWAYS: No objection.

SOUTHERN WATER: No objection.

SOUTH DOWNS NATIONAL PARK AUTHORITY: No comments to make on the application.

SUSSEX POLICE: General comments received referring to guidance. The development should be designed to Secured by Design Standards.

WSCC HIGHWAYS: Comment as follows:

- Access: There are visibility issues the splay to the west of the access. The Road Safety Audit (RSA) identified a problem with parked vehicles obscuring the splay and WSCC agree this issue should be resolved. There will be a requirement to re-instate the kerb on Main Road which is currently serving as a gated field access to the site. These works can be secured via a condition or be included in the S106 agreement, which is preferred and delivered as part of the S278 agreement.

- Trip Generation: The distribution of trips would not create more than 9 trips in one direction and would not require a further assessment of junction capacities.

- Internal Layout: The layout has been designed as a shared surface, which would suit this development as it is a cul-de-sac with the number of vehicles below 100 per hour. Provision should be made for disabled people and pedestrians on how they can navigate the space. WSCC preferred means of achieving this is by way of a short continuation of a footway into the shared surface. Current drawings show granite sets however these could create a trip hazard.

- PROW: We would encourage the applicant to consider the provision of 1 link into the PROW on its southern boundary to encourage permeable walking routes.

- Swept Path: Drawing A364-002/P4 demonstrates that a large refuse vehicle etc can use the internal layout, and are able to park, turn and exit in forward gear.

- Construction Access and Construction Management Plan (CMP): The application proposes to use the field access for construction until a new access has been created. This needs to be included in a CMP.

- Parking Strategy: The site is in parking behaviour zone 1. WSCC are satisfied with the proposed number of spaces, and this meets the Arun District Council's parking guidance.

WSCC EDUCATION: Object. State developers are required to mitigate the impact of their developments and, where appropriate, provide or make contributions towards site specific education provision where a specific need is identified arising from the impact of the development. School places are required in perpetuity to mitigate planned development. Until such time that a new secondary school to meet Arun requirements in accordance with the Council's commitments is built and open to pupils, transport costs are required to mitigate the additional costs to transport pupils from Arun District, who were unsuccessful in securing a place at one of their preferred schools or catchment school, to access education places at an alternative secondary school in West Sussex. WSCC will seek a contribution from developments towards funding the provision of home to school transport in accordance with the West Sussex home to school transport policy. This contribution seeks to cover the cost of providing new or additional transport, based on a calculation of the number of pupils generated by the development that require secondary school places before a new secondary school in Arun is delivered.

WSCC LOCAL LEAD FLOOD AUTHORITY (LLFA): No objection subject to drainage conditions.

WSCC FIRE AND RESCUE: No objection subject to a fire hydrant condition.

ADC TREE OFFICER: No comments received however stated on the previous application that had no objections.

ADC CONSERVATION OFFICER: Less than substantial harm. Despite the mitigation measures a degree of harm would remain as a result of development on undeveloped agricultural land in a Conservation Area's immediate setting. Such harm would fall towards the lower end of the 'less than substantial' range of harm. A low degree of harm is identified to the significance of Cosy Cottage, The Cottage, Cornerways, and St Giles as locally listed buildings and potentially part of the remains of the Canal, arising from the introduction of development on undeveloped agricultural land in their immediate setting. The development would result in some harm to the setting of the identified heritage assets and harm their significance. The application should be determined in accordance with relevant policies in the Development Plan, along with these comments.

ADC DRAINAGE: No objection subject to conditions.

ADC ECOLOGY: Raise no concerns with ecology and requests various conditions. States the Biodiversity Net Gain assessment shows an increase of 16.06% for Habitats and 23.51% for hedgerows.

ADC GREENSPACE: Recommend no landscape objection to the proposals.

ADC ENVIRONMENTAL HEALTH: No objection in principle subject to conditions in regard to contamination, construction, lighting, and air quality.

ADC ECONOMIC REGENERATION: No specific comments. Ask that an Employment and Skills Plan is included.

ADC HOUSING STRATEGY & ENABLING MANAGER: No objection subject to the mix/tenure secured via a s106 legal agreement.

ADC LANDSCAPE OFFICER: No objection. The Open Space SPD (January 2020) requires 1,650 sqm as a minimum of well connected, usable, quality Public Open Space in this development. The proposal appears to meet compliance with this.

COUNCIL's ARCHAEOLOGY ADVISOR: No objections subject to conditions. Agrees with the conclusions of the desk-based assessment study regarding potential impact on deposits of interest and agrees this would be best mitigated through archaeological evaluation and further investigation as appropriate. This process would be best secured via a condition.

#### **COMMENTS ON CONSULTATION RESPONSES:**

All comments noted and either discussed in the report's conclusions or dealt with by conditions. The conditions requested by WSCC LLFA have not been included as they would duplicate the drainage conditions requested by the council's own engineers.

<b>POLICY CONTEXT</b>
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Designations applicable to site:

- Outside the Built-Up Area Boundary (BUAB).
- Within 20m of the Yapton Main Road Conservation Area.
- Adjacent the former Portsmouth & Arundel Canal.



- Opposite to 4 x locally listed buildings.
- Grade 1 Agricultural Land.
- Currently predominantly Flood Zone 1 but with Zone 2 in the NW corner.
- Area of Advert Special Control; and
- CIL Zone 3.

The site is not in a waste site buffer, a mineral protection area, the Lidsey treatment catchment area or an Archaeological Notification Area.

## DEVELOPMENT PLAN POLICIES

### [Arun Local Plan 2011 - 2031:](#)

AHSP2	AH SP2 Affordable Housing
CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERDM5	HER DM5 Remnants of the Portsmouth and Arundel Canal
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
HWBSP1	HWB SP1 Health and Wellbeing
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space, outdoor sport, comm& rec facilities
QESP1	QE SP1 Quality of the Environment
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[Yapton Neighbourhood Development Plan 2011-2031 Policy BB1](#) Built-up Area Boundary

Yapton Neighbourhood Development Plan 2011-2031 Policy E1 Protection of high value agricultural land

Yapton Neighbourhood Development Plan 2011-2031 Policy E3	Protection of natural habitats
Yapton Neighbourhood Development Plan 2011-2031 Policy E4	Minimising the environmental impact of development
Yapton Neighbourhood Development Plan 2011-2031 Policy E5	Retention and enhancement of biodiversity
Yapton Neighbourhood Development Plan 2011-2031 Policy E11	Minimising the impact of flooding from development
Yapton Neighbourhood Development Plan 2011-2031 Policy H1	Housing Requirement
Yapton Neighbourhood Development Plan 2011-2031 Policy H2	Dwelling Size
Yapton Neighbourhood Development Plan 2011-2031 Policy H3	Dwellings appropriate for the needs of older people
Yapton Neighbourhood Development Plan 2011-2031 Policy PK1	Parking standards for new residential development

**PLANNING POLICY GUIDANCE:**

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
SPD13	Arun District Design Guide (SPD) January 2021

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and the made Yapton Neighbourhood Development Plan. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The policies of the recently made Yapton Neighbourhood Development Plan are referred to in this report.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal conflicts with relevant Development Plan policies in that the site is located in the countryside and on best & most versatile agricultural land.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that:

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

#### OTHER MATERIAL CONSIDERATIONS

There are other material considerations to be weighed in the balance with the Development Plan and these are set out in the Conclusions section below.

#### CONCLUSIONS

##### PRINCIPLE:

Arun Local Plan (ALP) policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal and so the proposal conflicts with the ALP.

The council's latest 5-year Housing Land Supply (HLS) figure will be discussed at the Planning Policy Committee on 30 January 2024. The agenda documents show that this has risen to 4.17 years (up from 2.36). This is positive but as the council still cannot demonstrate a 5-year HLS, the presumption in favour of sustainable development continues to be engaged as per paragraph 11(d) of the NPPF.

The Yapton Neighbourhood Development Plan (YNDP2) was made in November 2023 and shows the site as outside the BUAB. Policy BB1 states development outside this will not be permitted unless it accords with ALP policy C SP1. Therefore, the proposal also conflicts with the YNDP2.

The Council's Action Plan (June 2019) made a series of recommendations to boost housing delivery. It recommended the Council consider inviting applications from landowners / developers on 'deliverable' Housing & Economic Land Availability Assessment (HELAA) sites to re-establish the 5-year housing land supply. The site (ref NEWY17) was stated to be 'developable' (not deliverable) in the 2021 HELAA and so would not benefit from support from the Action Plan.

In February 2021, Arun published an Interim Statement Policy for Housing Delivery (IHS). This is not policy but was produced as a guide for developers proposing development on sites outside the BUAB and to inform decisions. The IHS applies to sites adjacent to settlement boundaries and this site meets the criteria as there is BUAB to the immediate southeast and east. The IHS sets out criteria to help speed up determinations of suitable residential developments. The application states the proposal meets all but one of the criteria (the exception being the site is not in the BUAB and scores highly against the criteria).

Paragraph 14 of the NPPF states where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the Plan is less than 5 years old and contains policies and allocations to meet its identified housing requirement. The YNDP2 was made in 2023 and includes policies and allocations to provide for additional housing in the area. On this basis, where there is conflict with the plan, the NPPF directs that this harm will likely outweigh the benefits.

The principle of the proposal conflicts with the Arun Local Plan and with the YNDP2. It is material that the

Council cannot demonstrate an appropriate Housing Land Supply and that it has invited applications on sites adjacent to settlements in sustainable locations. Due to the Housing Land Supply position, the application falls to be determined by the NPPF presumption in favour of sustainable development and this is considered at the end of this report.

#### SUSTAINABILITY:

The site, despite being outside the BUAB, is adjacent to the defined settlement edge and is in a sustainable edge of settlement location. Together with proposed footway improvements to the southeast of the access junction, it will be possible to walk from the site, link with footways close to the Drove Lane junction and then cross the road to footway on the opposite side. From there it is possible to walk in a south easterly direction to the centre of Yapton.

It will be possible in future to walk through the Bonhams Field site (delivered by Seawards), and through the adjoining Stakers Farm site (delivered by Dandara) to reach North End Road where the primary school and a doctor's surgery are. Once the strategic site off Drove Lane is complete, it will be possible to walk or cycle through it to reach Bilsham Road on the south side of Yapton where there is another doctor's surgery. From the site the Yapton Community Centre/sports pitches, the Co-op/Butchers/Chip Shop the Primary School and the nearest surgery are all within 660m.

There are bus stops a short walk 330m to the southeast (on both Main Road and North End Road). These are served by numbers 66A, 66C and 665 which provide access to Walberton, Bognor Regis and Littlehampton (and stops in between). Although public transport may not be particularly attractive in terms of frequency, it does exist as an alternative. It is also possible to cycle to access nearby facilities.

The applicant has provided a residential travel plan and sustainability statement which together detail the accessibility credentials of the site, improvements to facilitate walking in the vicinity of the site, provision of cycle storage & electric vehicle charge points, promotion of car sharing, and provision of information on walking/cycling/buses/rail to new residents. Whilst the private car could be required for certain journeys, new residents would not need to rely on a car for local journeys.

The whole proposal will provide 6 affordable dwellings and a total of 20 dwellings to contribute to current housing land supply shortfall and help to meet future needs.

Notwithstanding the loss of the agricultural land (which has an economic cost), the proposal as a whole meets the economic, social, and environmental aspects of sustainable development and the presumption in favour of sustainable development is engaged.

#### AGRICULTURAL LAND:

The application is accompanied by a Soil Resource Survey (September 2021). This states that on-site soils are predominantly Silty Clay Loam which are unlikely to perform well in residential back gardens or as landscaping as they will be prone to compaction, at higher risk of waterlogging, surface water ponding and poor grass growth. Measures are recommended to make the soils more suitable for such purposes and the report states that a soil resource plan would need to be prepared (through a condition) to secure the protection and mitigation of the soils.

The report does not identify the grading of the on-site soils but as per the map at Appendix 4 of the YNDP2, these are likely to be classified as grade 1 agricultural land (best and most versatile). The YNDP2 map is based on data provided by the National Provisional Agricultural Land Classification Grading system (ALC). It is not based on site specific surveys but instead is assessed using various criteria including temperature, rainfall, aspect, exposure, frost risk, gradient, micro-relief, flood risk, soil

depth, soil structure, soil texture, ground-based chemicals, and stoniness.

The land clearly is currently used for arable crop purposes (wheat) and is a large field which is bordered by additional agricultural land to the northwest and southwest. It has the benefit of an existing access from the road and a secondary access into the adjacent (much larger) field thus allowing it to be farmed as part of a larger agricultural holding.

ALP policy SO DM1 states unless land is allocated, then the use of Grades 1, 2 and 3a (Best & Most Versatile Land or BMV) of the Agricultural Land Classification Grading System (ALC) for development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. YNDP2 policy E1 is similar but makes it clear that high grade land can only be developed if it concerns a housing allocation or is required to meet additional housing demands. The proposal conflicts with this policy.

The previous report stated that although the site is used for crops, the Council's HLS shortfall was significant and agricultural land will need to be built on to meet the shortfall. It went on to say that sites that are close to existing settlement boundaries such as this would be preferred to meet the housing need and therefore on balance, the HLS need serves to outweigh the loss of the agricultural land.

However, the recent changes to para 14 of the NPPF have the effect of increasing the weight to be afforded to the YNDP2 policies where there is a policy conflict. In addition, the footnote to para 181 of the NPPF has been amended to stress the importance of ensuring the availability of agricultural land used for food production when deciding which sites are most appropriate for development.

Policy SO DM1 makes it clear that in order to fully justify the loss of the agricultural land, the policy criteria (a) to (b) and (d) to (g) should be met. These require assessment of the land's economic status, the land's environmental and other benefits, and mitigation measures. The applicant has not responded to these criteria and has not provided a Soil Resource Plan (although this can be secured by a condition). Whilst the need for the whole development is accepted, there is conflict with the other parts of the policy.

The previous application (Y/149/22/PL) was not refused for the loss of agricultural land however there has been a change to the NPPF which is material to this determination and allows for a different conclusion to be reached.

#### FLOOD RISK:

The site is predominantly in Flood Zone 1, which is determined to have a low probability of flooding. The north-western boundary and north-eastern corner are in Flood Zone 2. These areas lie close to an existing watercourse. Climate change predictions suggest this area will not enlarge in future years.

Arun Local Plan Policy W DM2 refers to the sequential and exceptions tests, need for a Flood Risk Assessment (FRA) and mitigation. Policy ECC SP1 states development must be located and appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding. Government guidance requires the submission of a sequential site assessment where a site is at substantial risk of current or future flooding. YNDP2 Policy E11 requires developments be designed and constructed to minimise the overall level of flood risk in the Parish.

It is material that the extent of Flood Zone 2 does not affect any of the housing and instead affects areas shown as public open space and for biodiversity net gain. No dwellings will be IN Flood Zone 1. There will be no harm to the safety of future occupiers and there is no need for a sequential assessment or the exceptions test. The Environment Agency have reviewed the Flood Risk Assessment (FRA) and raise no

objections subject to conditions.

The Council's Drainage Engineers also raise no objection to the proposal, subject to conditions. There are no conflicts with the relevant Development Plan policies.

#### TRAFFIC & ROAD SAFETY:

Arun Local Plan Policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking. Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes.

The application proposes a new access onto Main Road with the existing accesses then closed. The access will join the highway close to the existing Drove Lane junction to the southeast (16m) and the new access into the Bonhams site to the east (9m). The access will alter the existing parking layby with the result that parking spaces will be lost. Therefore, it is proposed to extend the layby by 35m at its northern end thus maintaining the existing parking provision.

Pedestrians will be able to exit the site to the south then cross the road to reach continuous footway heading into Yapton on the opposite side. They (and cyclists) will also be able to access the adjacent strategic site without needing to cross any roads and from there use the new cycleway to reach Bilsham Road and from there, the cycleway along the A259 between Littlehampton and Bognor Regis. There is also to be footpath access through the Bonhams site opposite and then through a further site to reach the primary school as an alternative to Main Road/North End Road.

Neither National Highways nor WSCC Highways raise any objections (subject to conditions). A Road Safety Audit has been provided and agreed by WSCC. All the recommendations of this would be achieved through the separate Section 278 agreement. The proposed footway improvements and new crossing gain support from ALP policies T SP1 & T DM1 which require development to reduce the need to travel by car and give priority to pedestrian and cycle movements. No concerns are raised in respect of safety given the position of the nearby accesses or the anticipated increase in traffic in the village.

The extension of the layby will ensure no loss of existing parking for residents whilst securing necessary visibility splays for the new access.

Based on the zone maps in the Arun Parking Standards SPD Guidance, the site is in parking zone 1. The SPD sets out a need for 43 allocated spaces and 4 visitor spaces (47). The layout provides 44 allocated on-curtilage spaces. In addition, 6 spaces are available from 10 garages (3 double and 6 single which are allowed to count for an additional 0.5 spaces per garage) together with 3 visitor spaces in off-street bays have been provided. This equates to a total provision of 52 spaces which exceeds the requirement. The spaces all either meet or exceed the Arun Design Guide requirement of 2.5m by 5m.

YNDP2 Policy PK1 aligns with Arun Parking Standards and there is no conflict with this policy. The plans show that cycles will be stored in garages or small sheds in rear gardens which is acceptable. The SPD requires a single cycle space for 1/2-bedroom houses and 2 spaces for 3+bed houses.

In accordance with adopted parking standards, the development would at a minimum seek to implement active coverage for Electric Vehicle Charging at all dwellings with a garage and driveway. This equates to 13 dwellings (62%). The remaining dwellings will be provided with passive coverage to enable easy future installation of Electric Vehicle charging infrastructure.

The proposal is compliant with development plan policies and guidance on highway safety in the NPPF.

HERITAGE:

The south-eastern boundary of the site is adjacent to the Yapton Main Road/Church Road Conservation Area (approx. 20m from the edge of this). The site is around 70m from a Grade II Listed Building with further such buildings beyond this to the southeast. There are four locally listed buildings directly opposite the road frontage. For the purpose of the NPPF, these are Non-Designated Heritage Assets (NDHA). The former Canal (to the west) and Drove Lane to the southeast are also Non-Designated Heritage Assets (NDHA's). The latter was established as such in the determination of the adjacent strategic site.

Relevant Arun Local Plan policies are HER SP1 (The Historic Environment), HER DM1 (Listed Buildings), HER DM3 (Conservation Areas) and HER DM5 (Remnants of the Portsmouth and Arundel Canal). HER SP1 states that development likely to prejudice heritage assets (including a Non-Designated Heritage Assets (NDHA) and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. HER DM3 lists criteria for proposals affecting the setting of a Conservation Area and those relevant are:

(a) New buildings and structures should acknowledge the character of their special environment in their layout, form, scale, detailing, use of materials, enclosure and the spaces created between buildings; and  
(f) It does not harm important views into, out of or within the Conservation Area.

HER DM5 states development will not be permitted where it would adversely affect the line and configuration of the remaining sections of the canal. The proposal is adjacent to the line of the canal and does not physically affect it. YNDP2 policy E8 states development proposals will be required to preserve or enhance the character of conservation areas.

Guidance in the NPPF sets out steps that must be followed when considering impact on heritage assets. Paragraph 200 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Paragraph 201 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is no harm, 'less than substantial harm' or 'substantial harm'. Where 'less than substantial harm' is identified then this must be balanced against the level of public benefits associated with the proposal (as set out in para 207). In respect of Non-Designated Heritage Assets, paragraph 208 states in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Whilst it is noted that the quantum of development remains the same and moreover, that the dwellings are laid out in a similar layout to that previously considered. The main changes relate to the design and orientation of the ridge lines which are now parallel to the road with more traditional elevational treatment, small windows, and traditional local materials.

The submission includes an updated heritage statement which describes the significance of the heritage assets. The Council's Conservation Officer advises the following:

- a degree of harm would remain as a result of development onto previously undeveloped agricultural land within the Conservation Area's immediate setting despite the suggested mitigation measures. Such harm would fall towards the lower end of the 'less than substantial' range of harm.

- a low degree of harm is identified to the significance of Cosy Cottage, The Cottage, Cornerways and St Giles (now Applepie Cottage), as locally listed buildings, and potentially part of the remains of the canal, arising from the introduction of new development on previously undeveloped agricultural land within their immediate settings.

The Council's Conservation Officer concludes "the impact of the proposed development would result in some harm to the setting of the above identified heritage assets, and therefore harm their significance. As a consequence, the application should be determined in accordance with the relevant policies within the Development Plan, along with these comments". The Conservation Officer also advises of a neutral impact to the setting of the nearby listed buildings.

Given the 'less than substantial harm' to the Conservation Area, it is necessary to weigh this harm against the public benefits that the development may achieve. The public benefits include:

- Sustainable Development.
- Boost to Housing Supply.
- Biodiversity enhancements that would otherwise not be achieved; and
- Economic benefits from construction & new residential occupiers.

Given the low degree of 'less than substantial' harm to the Conservation Area, this is capable of being outweighed by the scheme benefits and so NPPF paragraph 207 is satisfied. Whilst there is also some harm to the setting of the locally listed buildings and the other NDHAs, this is low in magnitude.

The public benefits and mitigation measures are such that the balancing exercise finds that the harm to designated and non-designated heritage assets can be outweighed by the benefits in favour of the development.

#### LANDSCAPE, CHARACTER, DESIGN & DENSITY:

Arun Local Plan Policies D SP1 and D DM1 require development to make the best possible use of land by reflecting or improving on the character of the site/surrounding area. Policy LAN DM1 states development should respect the particular characteristics & natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas. Policy AH SP2 seeks to ensure affordable housing is visually indistinguishable from market housing and that layouts avoid large clusters.

Yapton Neighbourhood Plan (YNDP2) Policy H1 refers to encouraging small-scale residential developments that are sympathetic to their surroundings and providing well-designed dwellings that are sympathetic to the character of the village. Policy H4 encourages high quality & sympathetic design, appropriate density, and sufficient outdoor space. Policy E1 (soils) proposes to include a requirement that development must protect and enhance the character and quality of the Yapton landscape character area.

Section G of the Arun Design Guide (ADG) suggests a density for village locations of 15-25 for detached/semi-detached houses, 20-30 for terraced houses and 30-50 for flats. The density should be appropriate to the location, balancing the need for efficient use of land with a design that responds to and enhances the existing character. The gross density of the whole site is 13.8 dwellings per hectare. The density of the adjacent strategic development is higher than this at 22.9 dwellings per hectare whilst the Bonhams site opposite is 17.5. It is appropriate for density to decrease away from the settlement centre or on sites outside of the defined settlement area and so there are no concerns with this density.

Section J refers to building design and states new development must ensure the existing character and



sense of place of an area is respected and enhanced. This can allow for new design forms but only where these take cues from well-designed elements of the area. New development should generally reflect the scale of existing buildings and should not detract from the character and appearance of the building and local area.

Previous concerns related to design, appearance, and materials. These were inappropriate in this edge of settlement location and would be harmful to the character and vernacular of the immediate area and by association with the setting of the Main Road/Church Road Conservation Area, the setting of the locally listed buildings to the north and the setting of the former Portsmouth and Arundel Canal.

The quantum of development remains the same and the dwellings are laid out in a very similar layout to that previously considered. The main changes relate to the design as well as the orientation of the dwellings which now sees the ridge lines which parallel to the road with more traditional elevational treatment, small windows, and traditional local materials. The proposal introduces short terraces reflecting the local listed buildings.

The buildings along the frontage of the main road work more closely with the character of the nearby built heritage. The elevational design and materials chosen for plots 1-2, 3-4, 7-11 and 19 follow a traditional rural style and mirror some of the key features found on the terrace of locally listed buildings opposite the site.

The revised design incorporates different ridge heights and a variety of fenestration types and sizes. Traditional building materials have been chosen, which predominantly comprise a combination of red brick and flint with slate roofs, which is in keeping with the local vernacular building style.

There are no concerns with the layout which is appropriate to the shape and size of the site. The layout incorporates an area of Public Open Space (POS) that is in excess of the requirements. Whilst this is entirely at one end of the site and is in conflict with the Arun Design Guide (ADG) which makes it clear open spaces should be clearly integrated in the scheme, it is material that in this case the Public Open Space (POS) is in the area of the site in the flood risk zone. This is a relatively small site and so the POS can be easily accessed from all dwellings. It is overlooked by a mix of principal and secondary windows on the flanks of plots 17/18 and the rear of plot 20.

There is no clustering of the affordable housing. It is acknowledged that the only terrace is to be occupied by affordable housing however there is no difference in design quality between the market and affordable homes. As such, there is no conflict with Arun Local Plan Policy AH SP2.

The proposal by virtue of design and appearance (including materials) would not conflict with policies D DM1, D SP1 and the Arun Design Guide.

#### RESIDENTIAL AMENITY:

Arun Local Plan Policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Arun Design Guide sets out guidance on interface distances between houses:

- Back-to-Back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property.
- Front to Front: min. 16m between habitable rooms of properties facing each other.
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.
- There are no standards for either side to side or front to back.

The layout has been assessed using the Design Guide standards and there are no shortfalls versus the standards in respect of the relationships between houses and to nearby houses. The new access and use of the site as a whole will result in an increase in activity levels on this part of Bilsham Road but existing residents here are already adjacent to a main road where traffic and activity is to be expected. Increased activity levels will contribute to a change in character, but this will not be detrimental to the amenities of existing residents. There is no conflict with relevant Development Plan policies.

#### QUALITY OF ACCOMMODATION:

Arun Local Plan Policy D DM2 states that internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. The full application demonstrates all dwellings meet or exceed the required standards.

The Arun Design Guide requires rear gardens to be a minimum of 10.5m deep and front gardens at least 2m. The layout has been checked and all residential gardens are at least 10.5m deep with the exception of plot 20 at 10.3m. All front gardens meet the requirement except for plots 3-6 which front straight onto a shared surface courtyard. Whilst not all of these standards have been met, the Arun Design Guide is guidance not policy and so allows for a degree of flexibility.

#### HOUSING MIX:

Arun Local Plan Policy H DM1 seeks a mix of dwelling types and sizes to address the nature of local housing needs and market demand. The policy preamble (12.2.4) acknowledges that the final mix will be negotiated on a site-by-site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

Table 29 of the "Updated Housing Needs Evidence" (Sept 2016) identifies a suggested broad mix of market housing by size for the District.

- 1-bed dwellings: 5-10% of all dwellings.
- 2-bed dwellings: 40-45% of all dwelling.
- 3-bed dwellings: 35-40% of all dwellings; and
- 4+ bed dwellings: 10-15% of all dwellings.

Separate ratios are given for affordable rented and intermediate/starter homes however this element of the mix would be separately agreed through the Section 106 legal agreement and reflect the advice of the Housing Strategy Manager. YNDP2 policy H2 requires the following mix for developments of fifteen or more dwellings:

- 1-bed dwellings: 10-15% of all dwellings.
- 2-bed dwellings: 25-35% of all dwellings.
- 3-bed dwellings: 45-55% of all dwellings; and
- 4+ bed dwellings: 5-10% of all dwellings.

The proposed development comprises the following mix:

- 2 x 1-bed dwellings - 10%
- 5 x 2-bed dwellings - 25%
- 10 x 3-bed dwellings - 50%
- 3 x 4-bed dwellings - 15%

In respect of the Updated Housing Needs Evidence mix, the scheme conflicts in terms of the 2, and 3 bed proportions. Against YNDP2 Policy H2, the mix conflicts only in respect of the 4-bed proportion.

The application makes no attempt to justify the mix but due to the age of the policy/guidance and the relatively small-scale nature of the site, it would not be sustainable to refuse on this basis.

#### HOMES FOR OLDER PEOPLE:

YNDP2 Policy H3 requires that a minimum of 25% of the 1, 2 and 3 bed dwellings are delivered to M4(2) standard in the Building Regulations. In order to comply with the YNDP2 Policy, the application should provide 4.25 no. M4(2) homes. The application indicates a provision of 7 dwellings split between the affordable and market tenures.

Arun has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted policy or a supplementary planning document but is considered to have some weight as a material planning consideration and is supported by references in ALP policies D DM1 & D DM2. This would require 7 M4(2) homes.

#### SURFACE WATER DRAINAGE:

Arun Local Plan Policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS) as appropriate to the size of development. Yapton Neighbourhood Plan Policy E11 requires developments be designed and constructed to minimise the overall level of flood risk in the parish; and provide surface water drainage.

A drainage strategy forms part of the submitted FRA and has been reviewed by the Council's Drainage Engineers and by the Lead Local Flood Authority (LLFA). This proposes permeable paving with an under-drain system to take water either to the ditch along the north-western boundary or to swales situated along the north-eastern boundary. Prior to outfall into the ditch, water will be fed through a proposed pond (which will also take excess from the swales). Both the swales and the pond will also provide biodiversity benefits. The pond is situated outside of the Flood Zone 2 area.

The Council's Drainage Engineers raise no objection subject to conditions. Following negotiation, the WSCC Local Lead Flood Authority also raise no concerns. There is no conflict with the relevant policies.

#### FOUL DRAINAGE:

Arun Local Plan Policy W DM1 states all major developments must demonstrate, that adequate drainage capacity exists or can be provided as part of the development. Where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development. There is no requirement for a full Drainage Impact Assessment as the site does not lie within the Lidsey Treatment Catchment designation.

The Flood Risk Assessment states there is an existing 350mm public foul sewer running along the north-eastern boundary of the site within the B2233 (Main Road). It is proposed to connect to this with a 150mm gravity fed pipe.

Whilst the concerns of residents are acknowledged, there is no objection from Southern Water and it is material that, as per Ofwat rules, where a development can communicate directly to an existing public sewer system at no more than the existing pipe diameter, there is no requirement to undertake a capacity survey and the new connection would be subject to standard infrastructure charges. There is no

conflict with policy W DM1.

#### POLLUTION IMPACTS:

Arun Local Plan Policy QE DM3 requires that major developments are in easy reach of established public transport services, maximise provision for cycling & pedestrian facilities, include electric car charging points and contribute towards the improvement of the highway network. An Air Quality Assessment has not been provided but there is a Sustainability Assessment and Travel Plan which together include measures to reduce the need to travel by car. They also propose the provision of electric vehicle charge points and built sustainability measures.

ALP policy QE DM2 states outdoor lighting should not have an adverse impact on neighbouring uses or the wider landscape, particularly with regard to the South Downs International Dark Sky Reserve designation. The Environmental Health Officer and the Council's Ecologist recommend a condition to control lighting.

#### TREES:

Arun Local Plan Policy ENV DM4 states TPO protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity must not be damaged or felled unless the development meets certain criteria including that the benefits outweigh the loss of trees/woodland. YNDP2 policy E4 states development sites should retain well-established features of the landscape, including mature trees and species-rich hedgerows. Native tree planting will be needed to mitigate any significant loss.

The application proposes the removal of 1 tree - a 9m Elm tree categorised as unsuitable for retention - together with 13m of associated hedgerow. This is required to create the access. The Tree Officer has no objections. On this basis, there is no conflict with the relevant policies. A landscaping condition will also be imposed to secure replacement planting.

#### BIODIVERSITY:

Arun Local Plan Policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect habitats on site. YNDP2 Policy E3 seeks to prevent loss of natural habitat except where mitigation measures ensure the integrity of the habitat or where the habitat is relocated to a site within 500m of the existing. Policy E5 sets out a requirement for biodiversity net gain.

The application is accompanied by an Ecological Impact Assessment (EIA) which identifies that the most important wildlife habitats (hedges) are to the site boundaries, and these are largely retained aside from the section to be removed to create the access. The EIA states that the impact of this is not significant. Much of the site is an arable field and has low wildlife habitat value.

The applicant has submitted a Biodiversity Net Gain (BNG) Assessment which states the proposals will convert an arable field of low ecological value to a residential area with open space, wildflower areas, an attenuation pond, and a biodiversity improvement area all of which will deliver Biodiversity Net Gain. This equates to a 16.1% increase in habitat units and a 23.5% increase in hedgerow units (from new and enhanced hedgerows).

The council's ecologist has reviewed the submission and finds no concerns concluding that subject to conditions, the impacts will be minimised such that the proposal is acceptable. The proposal is in accordance with the relevant development plan policies.

**CLIMATE CHANGE:**

Arun Local Plan Policy ECC SP2 requires new residential and commercial development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. Policy ECC SP1 requires new development be designed to adapt to impacts arising from climate change and all major developments must produce 10% of total predicted energy requirements from renewables unless unviable. YNDP2 Policy H5 supports development which meets the highest possible standards of environmental and energy efficiency.

The application includes a sustainability statement which analyses the proposal versus these two policies and in relation to the Arun Design Guide. It discusses water sustainability, shade/cooling/ventilation/solar gain, access to green infrastructure, use of weather resilient materials and energy efficiency/renewable energy. In respect of the latter, it states:

- Solar panels to be added to 75% of the proposed dwellings.
- Homes built from 2025 will produce 75-80% less carbon emissions than developments under current regulations.
- Changes to the Building Regulations in 2022 are foreseen to produce 31% less carbon compared to the current regulations; and
- Use of high spec glazing, thick external walls & recovery of heat through Mechanical Ventilation Heat Recovery.

A condition would be imposed to seek the detail of these measures. Conditions will also be included to require electric vehicle charge points. It is proposed to achieve the optional water efficiency target of less than 110 litres per person per day and this would also require a condition. On this basis, there is no conflict with the relevant policies.

**AFFORDABLE HOUSING:**

Developments over 11 residential units require a minimum provision of 30% affordable housing on site as per Arun Local Plan Policy AH SP2. The Housing Strategy and Enabling Officer states the application should provide six affordable dwellings consisting of five affordable rented and one First Home. The applicant has met these requirements and as such there is no conflict with the policy unless the section 106 agreement is not completed.

**PUBLIC OPEN SPACE & PLAY:**

Arun Local Plan Policy OSR DM1 requires housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. In addition, Policy HWB SP1 seeks to ensure that new development is designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities.

The Council's SPD "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 1,650m<sup>2</sup> of Public Open Space (POS) to include 242m<sup>2</sup> for children's play. The layout exceeds this by providing 1,750m<sup>2</sup> of POS with only 240m<sup>2</sup> of this taken up by the pond. The layout includes a play area. It is the Council's approach to secure the on-site Public Open Space & play requirements by conditions and so this is not dependent on the agreement of a Section 106. There is no conflict with ALP policy OSR DM1.

**SUPPORTING INFRASTRUCTURE:**

Arun Local Plan Policy INF SP1 requires development proposals provide or contribute towards the

infrastructure & services needed to support development to meet the needs of future occupiers and existing community. This development would be liable for CIL, but the amount has not yet been calculated. Infrastructure providers such as WSCC and the NHS would be able to bid for a portion of the CIL payments collected to spend on their own projects. The Parish Council will also be provided with a percentage of the CIL receipts (25%) to spend on their own projects. These payments go towards providing the infrastructure that the district needs to support existing and future development.

Objectors are concerned that there is insufficient infrastructure (including shops) in Yapton to support the housing. There can be no conflict with policy INF SP1 if the development provides a CIL contribution. It is then the responsibility of external bodies to implement the necessary infrastructure. It would not be possible to provide for new shops through CIL receipts. In practice the creation of new housing is likely to create additional demand, and this may then generate interest from new shops or other similar businesses.

The proposal generates no conflict with policy INF SP1 in terms of infrastructure subject to a Section 106 agreement in terms of the provision for the future monitoring of the required Travel Plan, school travel and affordable housing. However, as the application is being refused, no s106 is in place and there is conflict with the policies.

#### SUMMARY & TILTED BALANCE:

This report identifies that the proposal is in conflict with the development plan policies in respect of development in the countryside, and the loss of high-grade agricultural land. The benefits of the application including 20 new homes to meet the identified HLS shortfall however, the weight to be attributed to this has been reduced by the recent increase in the council's HLS.

The NPPF presumption in favour of sustainable development states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Given the strength of the policy conflicts and the weight given to those conflicts which relate to the YNDP2 (given the effect of para 14 of the NPPF) then this report concludes that the adverse impacts would clearly and demonstrably outweigh the benefits and refusal is, thereby, justified.

It is therefore recommended that the application be refused for the following reasons.

#### **HUMAN RIGHTS ACT**

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the

submitted application based on the considerations set out in this report.

### DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

### RECOMMENDATION

#### REFUSE

- 1 The proposed development would result in a net loss of high value grade 1 agricultural land and the site is an unsuitable location for new residential development having regard to the spatial characteristics of Yapton. The proposed development is in conflict with Arun Local Plan policies C SP1 and SO DM1, Yapton Neighbourhood Development Plan policies BB1 & E1 and with reference to the weight to be afforded to Neighbourhood Plans by virtue of paragraph 14 of the NPPF.
- 2 In the absence of a signed Section 106 agreement, the development fails to make any affordable housing provision and is thereby contrary to the aims and objectives of the NPPF and policy AH SP2 of the Arun Local Plan.
- 3 In the absence of a signed Section 106 agreement, the development will not provide a travel plan necessary to ensure the promotion of alternative travel options and is thereby contrary to ALP policies T SP1, T DM1 and the NPPF.
- 4 In the absence of a signed Section 106 agreement, the development will not provide the contribution required to mitigate the additional cost of transporting to secondary school pupils to the nearest school and is thereby contrary to ALP policy INF SP1 and the NPPF.
- 5 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

### BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**Y/68/23/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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## APPEALS RECEIVED AGAINST PLANNING DECISIONS & ENFORCEMENTS

### Appeals Awaiting a Decision

**A/216/22/PL**

**Original Decision** = Refused

**Received:** 06-11-23

The Beeches, Crete House Dappers Lane Angmering

**Decision Level** = Delegated

Extension of existing dwelling (Crete House) and erection of two detached dwellings on vacant plot to the south, together with new shared access, car parking and landscaping. (Resubmission of A/266/21/PL). This application is in CIL Zone 2 and is CIL liable as new dwellings.

**Written**

**Representations**

**PINS Ref:** APP/C3810/W/23/3322262

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**AL/58/23/PL**

**Original Decision** = Refused

**Received:** 23-11-23

Lidsey Farm House Lidsey Road Bognor Regis

**Decision Level** = Delegated

Erection of 1no dwelling to replace historic caravan and detached garage. This application may affect the setting of a Listed Building, is a departure from the development plan, is in CIL Zone 3 and CIL Liable as new dwelling. (Resubmission of AL/167/22/PL).

**Written**

**Representations**

**PINS Ref:** APP/C3810/W/23/3328459

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**BE/71/23/PL**

**Original Decision** = Refused

**Received:** 22-01-24

Land to the rear of Regal House Shripney Road Bognor Regis

**Decision Level** = Delegated

9 No. residential dwellings and associated works including a new access. This application is in CIL Zone 3 and is CIL liable as new dwellings, and is a Departure from the Development Plan. (Resubmission of BE/102/22/PL).

**Written**

**Representations**

**PINS Ref:** APP/C3810/W/23/3332326

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**BN/119/22/OUT**

**Original Decision** = Refused

**Received:** 29-08-23

Land adjacent to Highfield House Yapton Road Barnham

**Decision Level** = Delegated

Outline application with all matters reserved, except access, for 19 No dwellings for persons over 55 with associated car parking, landscaping, drainage and open space. This application may affect the setting of listed buildings and is a Departure from the Development Plan.

**Written**

**Representations**

**PINS Ref:** APP/C3810/W/23/3327867

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**BN/132/22/PL**

**Original Decision** = Refused

**Received:** 14-11-23

51 Warren Way Barnham

**Decision Level** = Delegated

Construction of 1 No. end of terrace two storey dwelling with associated vehicular crossover.

**Written  
Representations**

PINS Ref: APP/C3810/W/23/3324032

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**BR/114/23/PL**

**Original Decision** = Refused

**Received:** 23-01-24

Unit 7 Durban Road Business Centre Durban Road Bognor Regis

**Decision Level** = Delegated

Change of use from B2 (General Industrial) and B8 (Storage & Distribution) to Class E (Commercial, Business and Service). This application is in CIL Zone 4 (zero rated) as other development.

**Written  
Representations**

PINS Ref: APP/C3810/W/23/3328753

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**BR/180/21/T**

**Original Decision** = Refused

**Received:** 02-08-22

4 The Orchard Close Bognor Regis

**Decision Level** = Delegated

Fell 1 No. Sycamore tree in rear back garden 3m from house and replace with either Willow or Silver Birch as directed.

**Written  
Representations**

PINS Ref: APP/TPO/C3810/8754

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**EP/3/22/PL**

**Original Decision** = Refused

**Received:** 10-10-22

2 The Street East Preston

**Decision Level** = Delegated

Change of use of temporary outside seating area to the rear of the restaurant to be a permanent seating area for the consumption of food and beverages for our customers to use all year round. This application is in CIL Zone 4 (Zero Rated) as other development.

**Written  
Representations**

PINS Ref: APP/C3810/X/22/3307441

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**FG/13/23/PL**

**Original Decision** = Refused

**Received:** 15-11-23

Land between 11a The Grove and 30 Brook Lane Ferring

**Decision Level** = Delegated

1 No 1-bedroom house along with associated parking & private outdoor amenity space (resubmission following FG/46/21/PL). This application is in CIL Zone 4 and is CIL Liable as a new dwelling.

**Written  
Representations**

PINS Ref: APP/C3810/W/23/3323503

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**FP/219/22/TEL**

**Original Decision** = Objection

**Received:** 29-11-23

Leverton Avenue Street Works Felpham

**Decision Level** = Delegated

Prior approval under Schedule 2, Part 16, Class A for proposed 5G telecoms installation, H3G 15m street pole and additional equipment cabinets.

**Written  
Representations**

**P/80/23/PL**

**Original Decision** = Refused

**Received:** 24-01-24

Lagnersh House Lower Bognor Road Lagness

**Decision Level** = Committee

Use of land for the stationing of 4 No. mobile homes for occupation by people unable to afford rented housing. This application is a Departure from the Development Plan and may affect the setting of a Listed Building. (Resubmission of P/150/22/PL).

**Written  
Representations**

**PINS Ref:** APP/C3810/W/23/3330447

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**WA/101/22/PL**

**Original Decision** = Refused

**Received:** 13-07-23

Brookfield Farm Eastergate Lane Walberton

**Decision Level** = Delegated

2 x detached 4 bedroom dwellings

**Written  
Representations**

**PINS Ref:** APP/C3810/W/23/3318743

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**WA/87/22/PL**

**Original Decision** = Refused

**Received:** 19-07-23

Brookview Nursery Eastergate Lane Walberton

**Decision Level** = Delegated

Removal of outdoor storage, including caravan and polytunnels and the erection of 7 No flexible E (g) flexible units comprising of offices and workshops, associated parking, drainage and turning spaces (resubmission following WA/98/21/PL). This site is in CIL Zone 3 (Zero Rated) as other development.

**Written  
Representations**

**PINS Ref:** APP/C3810/W/23/3316638

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**Y/41/23/PL**

**Original Decision** = Refused

**Received:** 05-12-23

The Old Coal Yard North End Lane Yapton

**Decision Level** = Delegated

Erection of 4 No dwellings with associated landscaping, access and parking. This application is a Departure from the Development Plan and is in CIL zone 3 and is CIL Liable as new dwellings.

**Written  
Representations**

**PINS Ref:** APP/C3810/W/23/3329367

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**ENF/258/22**

**Received:**

Ridgeway Park Road Barnham West Sussex

**Written Representations**

**PINS Ref:** APP/C3810/C/23/3316696

**ENF/366/21**

**Received:**

15 South Terrace Littlehampton West Sussex

***Written Representations***

**PINS Ref:** APP/C3810/F/23/3322586

**ENF/362/21**

Flat 1 , 4 Nelson road Bognor regis West Sussex

***Received:***

***Written Representations***

**PINS Ref:** 3335746 3335747 3335748

## Arun District Council

<b>REPORT TO:</b>	Planning Committee 14 February 2024
<b>SUBJECT:</b>	Appeals Performance & Cost 2023
<b>LEAD OFFICER:</b>	Neil Crowther
<b>LEAD MEMBER:</b>	Cllr Hamilton
<b>WARDS:</b>	All
<b>CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:</b>	
<p>The recommendations support:</p> <ul style="list-style-type: none"> <li>• Improving the Wellbeing of Arun.</li> <li>• Delivering the right homes in the right places</li> </ul>	
<b>DIRECTORATE POLICY CONTEXT:</b>	
<p>The proposals will help to enhance the quality of the natural and built environment, protect the district’s natural and heritage assets and to promote economic growth in a sustainable manner, striking a balance between the need for development and the protection of scarce resources.</p>	
<b>FINANCIAL SUMMARY:</b>	
<p>Financial implications are highlighted in the report.</p>	

### 1. PURPOSE OF REPORT

- 1.1. The report outlines the Council’s performance at appeal during 2023 and outlines the costs associated with those appeals.

### 2. RECOMMENDATIONS

To note the Appeals Performance & Costs for 2023

### 2. EXECUTIVE SUMMARY

- 2.1. Appeals performance for 2023 is set out in the report. This report relates to performance on planning application appeals.

### 3. DETAIL

- 4.1 The purpose of this report is to advise Members on how the Council has performed in the calendar year of 2023 in respect of appeals. One of the indicators within the planning department’s Business Plan aims for 70% of all appeals to be dismissed.

- 4.2 On 8 February 2023, a report to Committee reported appeal performance for the 2022 calendar year. Below is a summary of the Council’s performance over this period:

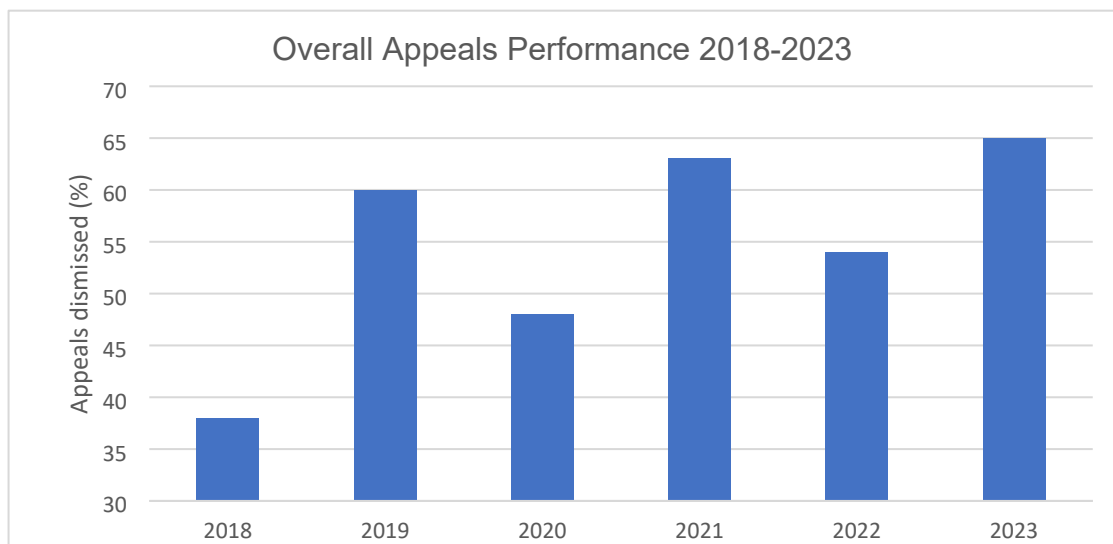
- A total of 39 appeals were determined in 2022, a decrease of 2 over that determined in 2021.

- Of these, 21 were dismissed representing a success rate for the Council of 54% of all appeals dismissed. That equated to a 9% decrease in success rate over 2021.
- Of all planning appeal decisions, 54% were made in accordance with the recommendation of officers.

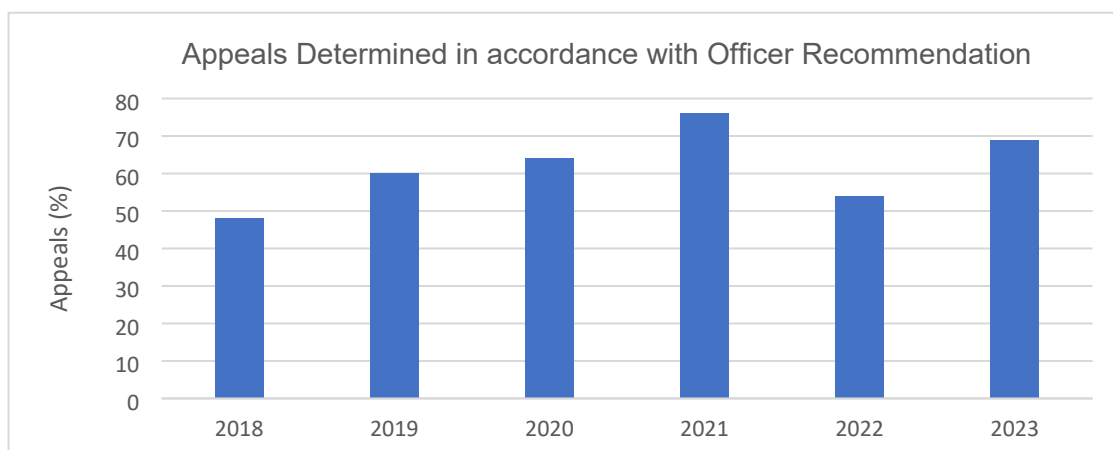
4.3 As highlighted by the recent Planning Review, appeals performance is a good indication of the quality of decision making at the Council.

**ALL APPEALS**

4.4 A total of 48 appeals were determined in 2023, an increase of 8 from 2022 and 7 more than 2021. Appeals workload had nearly doubled between 2019 and 2021 and this increase is continuing. Of the appeals in 2023, 31 were dismissed representing a success rate for the Council of **65%** of all appeals dismissed. That equates to an 11% increase in success rate from 2022.



4.5 In 2018, appeal decisions in accordance with the officer recommendation was only 48%. As a result, different sign off processes were introduced for delegated refusals. The performance over recent years is shown in the table below.



- 4.6 There were 3 appeals arising from a decision at Planning Committee to refuse permission contrary to the recommendation of officers in 2023 (there were none in 2022). 2 of these appeals were subsequently dismissed and 1 was allowed.

### **WRITTEN REPRESENTATIONS**

- 4.7 A total of 42 appeals were determined by written representations in 2023. Overall, 28 of these appeals were dismissed and one resulted in a split decision. This equates to a success rate of 67% being dismissed – an increase in performance of 8% compared to 2022 but a 1% decrease on 2021.

### **INFORMAL HEARINGS**

- 4.8 During 2023, there were 5 Informal Hearings.

- BR/86/20/PL (Aldwick House Care Home, 41-45 Nyewood Lane)
- LU/350/22/PL (27 Clifton Road)
- LU/347/22/PL (27 Clifton Road)
- FG/124/22/PL (Lansdowne Nursery and The Barn, Littlehampton Road)
- AL/178/23/OUT (Land to the rear of Meadow Way)

- 4.9 Officers defended all five of these appeals. All 5 were refusals issued under delegated authority. Two of these appeals were dismissed and 3 were allowed. The allowed appeals were for the change of use and extension of a 32-bed care home to a 38-bed HMO (BR/86/20/PL), the retention of a 10-bed HMO (LU/347/22/PL) and an outline planning permission for 89 dwellings (AL/178/23/OUT).

- 4.10 An application for costs was made for 4 of the 5 appeals decided at informal hearings. Partial costs were awarded on 2 appeals (BR/86/20/PL and AL/178/22/OUT).

### **PUBLIC INQUIRIES**

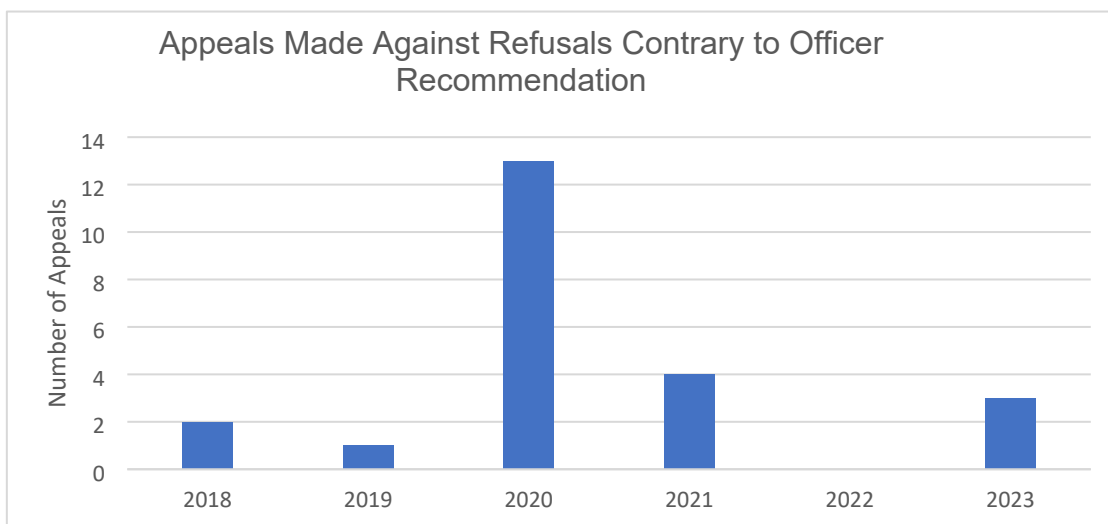
- 4.11 During 2023, there was one appeal decided by public inquiry. This application was WA/2/22/OUT – Land west of Yapton Lane, an application for 48 dwellings.

- 4.12 The application was allowed at appeal, but no application for costs was submitted and none were awarded.

### **PERFORMANCE OF PLANNING COMMITTEE**

- 4.13 During 2023, there were 3 appeal decisions made on decisions taken contrary to the recommendation of officers. 2 of these appeals were dismissed (BR/4/22/PL & K/22/22/PL) and 1 was allowed (FG/163/21/PL).

- 4.14 The table below shows appeals workload as a result of decisions taken contrary to the recommendation of officers in recent years. The significant number during 2020 was because of a significant increase in decision taken contrary to the officer recommendation after the local elections in May 2019.



### **MAJOR PROPOSALS**

4.15 During 2023, there were 5 appeals classified as a ‘major’ scheme. These appeals were:

WA/2/22/OUT	Land west of Yapton Lane	48 dwellings
FG/124/22/PL	Lansdowne Nursery	70 dwellings
AL/178/22/OUT	Land to the rear of Meadow Way	89 dwellings
WA/80/21/OUT	Land east of Yapton Lane	75 dwellings
Y/176/21/PL	Bonhams Field, Main Road	Variation of condition

4.16 Two of these appeals were allowed - WA/2/22/OUT and AL/198/22/OUT. Although the appeal at Lansdowne Nursery was dismissed, defending appeals for major housing schemes continues to be difficult, with the Council’s housing land supply position weighing heavily in the “planning balance”.

### **COSTS**

4.17 Appeals performance is an indicator of the quality of decision making at the Council. The Council’s ability to impose reasons for refusal that are reasonable and can be robustly defended is an important aspect of all decisions and one that is tested at appeal.

4.18 The costs of defending appeals during 2023, where there were costs awarded, and consultants used, is set out in the table below. It should also be noted that significant officer time is also required for managing appeals workloads (even in instances where consultants are used).

4.19 There were two costs awards against the Council during 2023. Costs were awarded against the Council on BR/86/20/PL because of an unreasonable reason for refusal on the grounds of inadequate amenity space which was inconsistent with other decisions taken in the area for similar development. The Council accepted that this reason was difficult to sustain and justify but did not withdraw it.



4.20 The second award was on appeal AL/178/22/OUT. The Council was explicit in that our case on noise and disturbance was a s a result of increased movement near to existing properties and that it was not a statutory or technical issue in respect of noise levels. Despite this, the applicant submitted a noise survey. The Inspector concluded that the reason for refusal was reasonable but that the noise impact assessment should have been considered and the reason for refusal withdrawn (even though we had been very clear that this was not a noise levels issue and the Inspector had accepted this). This was a bizarre conclusion, and the Council were perfectly justified in coming to the view that noise and disturbance would result.

Site	Decision	Costs Awarded (£)	Consultant Costs (£)	Overall Cost (£)
WA/2/22/OUT	Allowed	n/a	44,731.99	£44,731.99
BR/86/20/PL	Allowed	Allowed. £4,500	NA	£4,500
AL/178/22/OUT	Allowed	Partial. Amount TBC	NA	TBC

TOTAL	£4,500	£44,731.99	£49,231.99
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### **SUMMARY OF ISSUES**

4.21 Attached to this report is a summary of all the appeal decisions received in the 2023 period.

The schedule for all appeals determined in 2023 highlights the issues raised by Inspectors when making decisions. Where the Inspector has disagreed with the Council's decision to refuse and granted permission, the areas of disagreement are as follows:

- In 11 of the cases approved contrary to the decision the Inspector did not agree with the Council's position on character and appearance.
- In 4 of the cases the Inspector did not agree with the Council's position on adverse impact on living conditions of neighbours as regards noise and disturbance
- In 3 of the cases the Inspector did not agree with the Council's position that the adverse impacts of the development significantly and demonstrably outweighed the benefits in accordance with the NPPF.
- In 3 cases the Inspector did not agree with the Council on loss of agricultural land.
- In 2 of the cases the Inspector did not agree with the Council on the suitability of countryside locations.
- In 2 of the cases the Inspector did not agree with the Council's position on adverse impact on living conditions of neighbours as regards overlooking.
- In 2 cases the Inspector did not agree with the Council's position on the provision of amenity space for HMOs.
- In 1 case the Inspector did not agree that the development negatively impacted on amenity due to lack of disabled access.
- In 1 case the Inspector did not agree with the Council on flooding issues.

## **CONCLUSIONS**

4.22 When compared to 2022, the above shows that there has been a 7% increase in the overall success rate in terms of the Council's ability to defend appeals. In winning 65% of all appeals the Council has not met its corporate target of winning 70% of appeals.

4.23 Decisions made in accordance with the recommendation of officers has improved again in 2023 by 11%.

4.24 This report will form the basis of informal discussions between officers and members and these discussions will consider what further training may be required for members and officers.

## **5 CONSULTATION**

5.1 None

## **6 OPTIONS / ALTERNATIVES CONSIDERED**

6.1 N/A

## **7 COMMENTS BY THE INTERIM GROUP HEAD OF FINANCE/SECTION 151 OFFICER**

7.1 None

## **8 RISK ASSESSMENT CONSIDERATIONS**

8.1 N/A

## **9 COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

9.1 None

## **10 HUMAN RESOURCES IMPACT**

10.1 N/A

## **11 HEALTH & SAFETY IMPACT**

11.1 N/A

## **12 PROPERTY & ESTATES IMPACT**

12.1 None

## **13 EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE**

13.1 N/A

**14 CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE**

14.1 N/A

**15 CRIME AND DISORDER REDUCTION IMPACT**

15.1 N/A

**16 HUMAN RIGHTS IMPACT**

16.1 N/A

**17 FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS**

17.1 N/A

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**CONTACT OFFICER:**

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**BACKGROUND DOCUMENTS:**

## Arun District Council

	Site	Proposal	Recommendation/ Decision/Appeal Decision	Inspector's Comments
Page 184	1 <b>FG/163/21/PL</b> The Chalet, Littlehampton Road	Development comprising of marine workshop & boatyard, martial arts gym (Class E) & storage container compound (Class B8) to replace former glasshouses. This site is a Departure from the Development Plan & is in CIL Zone 3 (Zero Rated) as other development.	AC-R-ALC  Costs – Dismissed	<p>WR</p> <p>The Inspector refused to accept the amended plan offered by the appellants which showed a reduced ridge height but did accept the indicative landscaping scheme.</p> <p>The main issue was the effect on the character and appearance of the area, including the gap between Angmering and Worthing.</p> <p>The Inspector determined that:</p> <ul style="list-style-type: none"> <li>- As the development would be in the area of the former greenhouses, and as the site is in an existing cluster of development, the proposal would not undermine the visual or physical separation of the settlements.</li> <li>- The proposal would not represent any further encroachment into the open countryside, nor compromise the integrity of the gap.</li> <li>- The character in this cluster of development is light industrial and commercial.</li> <li>- The building would be partially set into the slope, will be partially screened by boundary treatment &amp; landscaping, will be seen visually against existing built development and covers a smaller area than the former greenhouses.</li> <li>- Whilst there is conflict with policy in respect of no evidence that the proposal could not be located elsewhere these policy criteria are not fully aligned with para 84 of the NPPF.</li> </ul> <p>The Inspector made changes to, and deleted, some of conditions recommended by officers (the conditions in the Committee report). Conditions that were deleted include a personal permission and ones controlling future use, plant &amp; vehicle noise, electric vehicle charging, lighting, and open storage.</p>
	2 <b>AL/85/22/HH Reed Cottage, Westergate Street</b>	Erection of detached garage with room above and 1 x dormer following the demolition of	R-R-D	<p>WR</p> <p>The main issues were the effect on the character and appearance of the site and surrounds and on living conditions for neighbours.</p>

		existing detached garage.		<p>The Inspector determined that:</p> <ul style="list-style-type: none"> <li>- The proposal would replace a sizeable, detached garage on a large plot in an established residential area.</li> <li>- The new building would be markedly larger in all dimensions than the building to be removed, already being of a sizeable footprint.</li> <li>- By virtue of scale, the ancillary and secondary nature of this proposal towards the main dwelling would be lost.</li> <li>- Appreciable dominance leading to a sense of overdevelopment.</li> <li>- Bulk and height paying regard to proximity would have an overbearing effect on neighbours to east.</li> </ul> <p>The Inspector noted that removal of the garage was positive, together with materials proposed for the new garage being thoughtfully chosen, however comparison offered by the appellant of similar development in the area were considered not to substantiate the scale of this proposal, being judged on its own individual merits.</p> <p>The Inspector agreed the proposal was in conflict with policy and dismissed the appeal.</p>
3	<b>AW/93/22/HH 10 Boxgrove Gardens</b>	Detached canopy car port.	R-R-D	<p>WR</p> <p>The main issue was the effect on the character and appearance of the locality.</p> <ul style="list-style-type: none"> <li>- The Inspector determined that even with a flat roof and single car dimension, the carport represented a significant and visually alien structure to the front of the property. A key characteristic of the locality is that front gardens have no appreciable development in them. The structure would look ill at ease in relation to the property, and would appear adversely 'random.'</li> <li>- The siting and form would run contrary to the character of the area and be unacceptably visually detrimental.</li> <li>- It is in conflict with D DM1, Aldwick Design Statement and ADG.</li> </ul>

				<ul style="list-style-type: none"> <li>- The reference to a car port in Pagham did not outweigh the harm.</li> </ul> <p>It was concluded that the proposal would have unacceptable adverse effects on the character and appearance of the locality and was dismissed.</p>
6	<b>BR/86/20/PL Aldwick House Care Home, 41-45 Nyewood Lane</b>	Part change of use from a 32-bed nursing home (C2 Residential Institutions) to a 38-bed sit House in Multiple Occupation (sui generis), demolition of rear conservatory & store & erection of single storey rear extension & with minor external alterations to side elevations & insertion of 4 No roof lights on rear elevation & insertion of dormer window serving Room 38	R-R-ALC  Costs – Allowed	<p>IH</p> <p>The main issues were the effect of the on the character of the area and on the living conditions of neighbouring residents with specific regard to noise and disturbance, whether the development would provide satisfactory living conditions for future occupants with regard to the provision of amenity space and the effects of the development in relation to parking.</p> <p>The Inspector determined that:</p> <ul style="list-style-type: none"> <li>- No harm on character given the former use, nature of the proposal and residential area.</li> <li>- No residential amenity issues as the proposal is not materially different to existing residential development or the former use and there is a management plan in place.</li> <li>- Whilst amenity space is limited and not completely adequate it is a greater area than for other HMO's permitted locally, these expectations cannot be realistically met in relation to a development of the scale, type and location in question, and the site is very close to public recreation parks/beach etc.</li> <li>- Sustainable site and there is spare on-street parking in a 200m radius.</li> </ul> <p>The costs application was allowed in part due to the third ground of appeal on the basis that the LPA could not sustain/justify its position in light of the other cases put forward by the appellant, had not reviewed the case beforehand and did not withdraw the reason before or during the appeal.</p>
7	<b>EP/157/21/PL 4 Beechlands Close and East of 18 Beechlands Court</b>	Erection of 1 No 2 bed, 3-person dwelling (resubmission following EP/69/21/PL)	R-R-D	<p>WR</p> <p>Main Issues:</p> <ul style="list-style-type: none"> <li>- The effect of the development on the character and appearance of the street scene</li> </ul>

				<ul style="list-style-type: none"> <li>- The effect on the living conditions for the occupiers of No. 4 Beechlands Close (outlook)</li> </ul> <p>The Inspector concluded: The proposal would noticeably diminish this open character with the house positioned at awkward angles and hard against the pavement. It would appear as having been 'squeezed in' to site. It would be a poor focal point when viewing from Montpelier Road. Its awkward relationship with highway would have visually jarring effect. Principle of 2-storey dwelling in terms of character acceptable however, it is the combination of the height with the size, siting and awkward shape of the site that serve as a constraint and would be perceived as a somewhat contrived development.</p> <p>1.8m fence would have a significant adverse effect on the outlook from the front windows of the bungalow at 4 Beechlands Close.</p>
8 Page 187	Y/60/22/PL Longacre, Maypole Lane	Erection of 1 No detached dwelling and garage with shared access from Maypole Lane.	R-R-ALC	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- the effect on the character and appearance of the area as regards potential overdevelopment</li> <li>- the effect on the living conditions for occupiers of Longacre and The Paddocks as regards privacy.</li> </ul> <p>The Inspector acknowledged the site was "tight," and shape of the site had resulted in the design of the dwelling appearing contrived. However, the dwelling is of a similar size to its neighbour and the appearance of the dwelling is appropriate. The dwelling has a large frontage and is set among the generous garden of Longacre. It would have useable garden to the front and rear and change of use from storage/builder's yard use will be an overall improvement of the character and appearance.</p> <p>The Inspector considered that the issue of overlooking could be prevented by a condition requiring the first-floor dormer windows looking towards Longacre and The Paddock by obscure glazed and fixed shut. Although not normally acceptable in a bedroom the Inspector considered that in this case the windows on the opposite elevation with view to open countryside would provide sufficient daylight to the bedrooms. The inspector noted residential amenity</p>

				<p>was likely to be improved by the removal of the builder's yard – a potential "bad neighbour."</p> <p>20 conditions were proposed, which appeared onerous for a single dwelling. The condition requiring an acoustic survey was removed, as was the EV charging condition as this is covered by Building Regs. The Inspector acknowledged the need for a precautionary approach given the nature of the site and other conditions, including contamination and the removal of PD rights were retained.</p>
9	<b>M/48/22/PD 48 Lane End Road, Middleton-On-Sea</b>	Notification for prior approval under Schedule 2 Part 1 Class AA for the construction of one additional storey.	O-O-D	<p>WR</p> <p>The main issue is the effect the external appearance of the development would have on the character and appearance of the surrounding area.</p> <p>An application must be made for prior approval as to the external appearance, including design and architectural features of the principal elevation of the dwellinghouse. The use of 'including' in the GPDO means that this matter is not part of a closed list. The street scene in form of pairs of semi-detached bungalows. Design would be acceptable in mixed style residential area however, as the extension would be dominant, bulky, and intrusive, it would harmfully erode the important consistency and openness in the nearby Lane End Road street scene. The proposal would be unacceptably at odds with the pattern of development and local character, it would be incongruous in its surroundings</p>
10	<b>BR/37/22/PL 120 Victoria Drive</b>	Change of use from residential care home (Use C2) to a 10 bed House in Multiple Occupation	R-R-D	<p>WR</p> <p>The main issues are:</p> <ul style="list-style-type: none"> <li>- The character and appearance of the surrounding area largely in relation to changes to the roof of the building</li> <li>- The integrity of the Pagham Harbour Special Protection Area (SPA) – lack of S106 agreement</li> </ul> <p>The Inspector found that the loss of chimney stacks and bulk of the new crown roof form and the steeper pitch would be unacceptably incongruous and that the harm caused could not be mitigated sufficiently by an external materials condition.</p> <p>The Inspector concluded that the proposal would have a significant</p>



				impact on the SPA. The “tilted balance” is engaged in this case as the care home would not have been counted in the Objectively Assessed Need and the HMO would be counted as supplying one shared dwelling. However, the development was contrary to the Development Plan.
11	<b>A/253/21/OUT Land between 32 Downs Way and 2 Ambersham Crescent</b>	Outline planning application with all matters reserved for the erection of 1 No bungalow dwelling with off street parking and private amenity space.	R-R-D	<p>WR</p> <p>The main issues are the effect that the development would have on the character of the surrounding area, and the living conditions of the future occupiers regarding private outdoor space.</p> <p>The Inspector determined that:</p> <ul style="list-style-type: none"> <li>- The site which includes mainly grassed area, is in an estate mainly characterised by similar pairs of pitched roofed bungalows set well back from the roads, a few detached bungalows of similar style and siting, and linear terraces of broadly uniform 2 storey dwellings. All set well apart.</li> <li>- The openness at the site is important and contributes positively to the lengthy open eastward vista along the western part of Downs Way.</li> <li>- The siting of any dwelling and/or associated tall boundary treatment nearer to Downs Way than the front of 32 Downs Way would be unacceptably intrusive in the important eastward vista, and any dwelling and/or associated tall boundary treatment nearer to Ambersham Crescent than the front of 2 Ambersham Crescent would harmfully erode the important spaciousness about the junction between the 2 roads.</li> <li>- Space available and narrow form and squeezed-in siting of the proposal would be harmfully out of character with the bungalow pairs and terraced dwellings close by.</li> <li>- Modest enclosed outdoor space would be unacceptably incongruous and damage the sense of place.</li> <li>- Provision of outdoor space insufficient and relatively unusable by way of size.</li> <li>- Boundary treatment formed by tall vegetation could not be relied upon to ensure future privacy of dwelling and private amenity space.</li> </ul>

				The Inspector found the harm identified did not outweigh the presumption in favour of sustainable development and agreed that the proposal was in conflict with policy and dismissed the appeal.
12	<b>WA/42/22/PL Morelands, Arundel Road, Fontwell</b>	Demolition of existing dwelling and erection of 5 No. residential dwellings, associated car parking and access. (Resubmission of WA/5/22/PL).	R-R-D Cost Application Dismissed	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- Character and appearance of the surrounding area</li> <li>- Living conditions of future occupiers regarding outlook of 3 of the dwellings and private outdoor space of 2 dwellings.</li> </ul> <p>The Inspector found the dwellings were too close to each other, and the road would be too prominent on the outlook of one of the dwellings. There would be little space for planting and existing vegetation at the boundaries of the site could not be relied on to endure to provide long term screening. The development would be dominated by hardstanding. The Inspector found that the comparison to the density of dwellings at "Land east of Fontwell Ave" did not alter the damaging nature of the proposal.</p> <p>The Inspector did not find that the living conditions of future occupiers would be harmed. There was one instance of unacceptable overlooking between bedrooms in plots A1 and B, but the Inspector judged this could be prevented by conditioning the windows to be obscure glazed. Although gardens of some plots did not meet the depth required by the design guide, the Inspector judged they were usable. These issues were neutral in the planning balance.</p>
13	<b>WA/2/22/OUT Land West of Yapton Lane</b>	Outline planning application with all matters reserved, other than means of access, for the construction of up to 48 dwellings (30% affordable homes) and dental/doctors' surgery	R-R-ALC	<p>PI</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- The effect on the intrinsic character and beauty of the countryside, and on the Barnham to Walberton settlement Gap.</li> <li>- The implications of the loss of Grade 1 agricultural land.</li> <li>- Accepting that the Council is unable to demonstrate a five-year supply of housing land, the significance of the shortfall.</li> <li>- The consistency of the proposal with the development plan taken as a whole, and whether any conflict and harm arising would be outweighed by other material considerations.</li> </ul>

				<p>The Inspector acknowledged the five-year housing land supply is not being met, and there is significant need for affordable housing within the District – it was noted that this site would assist the housing supply issue. As a result, they gave substantial weight to both the provision of market housing and provision of up to 14 affordable homes. Moderate weight was given to the development providing a mix of dwellings to meet local need. The Inspector did not feel the site, whilst not remote, is a highly sustainable location, and gave little weight to this. They noted economic benefits, with the creation of jobs and other spin off benefits to the local economy during the construction period. The provision of public space and the proposed SUDs were highlighted as a benefit, which would have social and environmental benefits, alongside the 12% Biodiversity Net Gain the development would bring.</p> <p>The Inspector recognised the conflict with ALP Policy C SP1 and NP Policy HP1 in regard to the five-year HLSs. They did not give it much weight due to the uncertainty surrounding how the Council will address the housing shortfall. Moderate weight was given to D SP1 and D DM1, but it was concluded that the development would only cause a moderate level of landscape and visual harm which would be localised and limited in extent. It was agreed by the Inspector that the proposal was in conflict with Policy SO DM1, but limited conflict was found with SD SP3, in light of the acute housing land supply position. It was considered the harm to the significance of the setting and small incursion to the Walberton Village CA would be less than substantial and low level, and overall would be acceptable.</p> <p>On planning balance, the Inspector found the adverse effects of granting permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.</p>
14	<b>AW/280/22/HH 25 Oxford Drive, Aldwick, Bognor Regis, PO21 5QU.</b>	Retrospective application for installation of front fence.	R-R-D	<p>WR</p> <p>The main issue was the effect on the character and appearance of the locality.</p> <p>The vast majority of neighbouring properties have adhered to the open plan estate concept of which this property is a part of.</p>

				The Inspector agreed the fence was contrary to D DM1 and Arun Design Guide and found the proposal to be jarring on the eye and harmful to the visual merits of the scene, in character and appearance terms.
15	<b>FP/127/22/PL 42 Felpham Road</b>	Construction of boundary wall	R-R-ALC	<p>WR</p> <p>The main issue was the effect on character and appearance.</p> <p>Where the refusal argued that the 1.7m wall would be unduly dominated and impact the open character of the area, the Inspector did not believe the character of the area was open. Fencing, garage doors and main elevations are principal elements on the street scene and higher boundary treatment on the return on a corner plot is common. They considered that it would not be a prominent feature on the street scene and materials were appropriate for the location.</p>
16	<b>LU/167/22/PL 17 Cherry Croft</b>	Erection of new self-contained dwelling at side of existing terrace house.	R-R-D	<p>WR</p> <p>The main issues of the appeal were:</p> <ul style="list-style-type: none"> <li>- The effect on the street scene.</li> <li>- The effect on the living conditions of the occupiers of 19-25 Cherry Croft.</li> </ul> <p>The Inspector found the proposal to sit comfortably with the predominant pattern of development of two and three storey terraces and the extension towards the footpath would not appear out of character with the varied pattern of development in the immediate street scene. They found no conflict with D SP1, D DM1, Arun Design Guide or NPPF (S12) in terms of street scene.</p> <p>The two-storey terrace at 19-25 Cherry Croft face onto the side of the appeal property with short gardens to the front and a public footpath between. The outlook from 19 and 21 would not be materially affected. Despite 23 and 25 benefitting from south facing rear gardens they appear to have habitable rooms facing north towards the appeal property. The development would bring the flank wall to within less than 9m from the front face of the two houses. The close proximity would be overbearing and detract from their outlook so harm the living conditions of 23 and 25.</p> <p>The public footpath would become less attractive to the local</p>

				<p>community especially at night.</p> <p>The potential benefit of reduced overlooking from the appeal property compared to the existing property (due to fenestration changes in the flank wall) would not outweigh harm to living conditions already identified.</p> <p>NPPF Para 11(d) is engaged. The adverse impacts significantly and demonstrably outweigh the social and economic benefits of 1 dwelling and the proposal would not be a sustainable form of development.</p> <p>The proposal fails to accord with the development plan and there are no material considerations, including the framework, which indicate a decision other than in accordance with the development plan. Appeal dismissed.</p>
17 Page 193	<b>BN/102/22/RAI Birch Level Crossing, Barnham</b>	Prior approval under Part 18 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the erection of a stepped footbridge.	O-O-ALC	<p>WR</p> <p>Main issue: - Whether the step footbridge would injure the amenity of the neighbourhood.</p> <p>The Inspector agreed that the provision of a ramped bridge would provide a better long-term solution to serve development on both sides of the railway. Under the terms of the GDPO they were limited to only consider whether the proposal would injure the amenity of the neighbourhood.</p> <p>The provision of a stepped bridge over the railway would improve the desirability of the route and make it safer for most users, and the Inspector noted the lack of ramps could be injurious to those who are unable to use steps. However, as they identified there may be opportunities to upgrade the access to the bridge in the longer term, through other developments around the site. This would not prevent the council securing appropriate improvements to the bridge in future.</p> <p>It was noted that refusing this bridge or requiring amendments would risk further delays to the delivery of a significant number of much needed homes. It was concluded the appeal proposal would not</p>

				result in injury to amenity, and that there was no reason for prior approval to be withheld.
18	<b>BR/4/22/PL 83 Aldwick Road, Bognor Regis</b>	Enlargement of existing HMO (Sui Generis). Single storey rear extension, rear roof dormer, front and rear rooflights (resubmission following BR/79/21/PL).	DIS DC Comm-R-D	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- Provision of amenity space</li> <li>- Effect on Pagham Harbour SPA</li> </ul> <p>The Inspector agreed with the officer's report that whilst the applicant had stated that 75sqm of amenity space would be provided, much less than this could be considered usable space. The space had a feeling of enclosure and would need serve other purposes, e.g., storage of bins and cycles. There is no nearby provision of public open space which would compensate for this, as on previous allowed appeals.</p> <p>The Inspector found the Pagham Harbour contribution would be required but as this could be secured as mitigation of the harm, this was not considered a reason for refusal.</p> <p>The Inspector gave limited weight to the provision of 6 new rooms in respect of paragraph 11. The number is modest and there was a lack of evidence provided of the ongoing demand for HMO accommodation. The Inspector concluded that "new residential accommodation should not come at the cost of future occupiers living conditions" as supported by para 130 of the NPPF.</p>
19	<b>EP/101/22/PL 4 Beechlands Close Site, fronting Montpelier Road</b>	1 No dwelling house (resubmission following EP/157/21/PL)	R-R-D	<p>WR</p> <p>Main issues:</p> <ul style="list-style-type: none"> <li>- Character and appearance of the area.</li> <li>- The living conditions of the occupiers of 4 Beechlands Close, regarding privacy, outlook and daylight, and neighbours at Nos. 17 &amp; 18 Beechlands Court, regarding outlook, daylight, noise, and disturbance.</li> <li>- If the proposal would provide acceptable living conditions for future occupiers, regarding internal space standards.</li> </ul> <p>The Inspector concurred with the reasons for refusal in relation to the harm on the character of the area and the lack of living amenity for occupiers of the dwelling owed to lower than minimum space standards.</p>

				No significantly adverse impacts on neighbouring occupiers at Nos. 17 & 18 were identified. The Inspector agreed the proposal was in conflict with policy and dismissed the appeal.
20	<b>BN/99/22/OUT Eastmere Stables, Eastergate Lane</b>	Outline permission with all matters reserved, other than access, for 9 No residential dwellings.	R-R-ALC	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- Whether the location was suitable for the development.</li> <li>- The effect on the character and appearance of the surrounding area.</li> </ul> <p>The Inspector agreed the development was a departure from the development plan but found that Eastergate Road had reasonably high levels of development. They judged the residential use of the front section of the appeal site, which had stables used for storage and a large area of hardstanding would not have a harmful effect on the character and appearance of the surrounding area. The Inspector found there was harm caused by building on the rear portion of the site which was equestrian paddocks. They suggested this could be mitigated to some extent at reserved matters stage, with the council being able to control landscaping, scale, and layout.</p> <p>The Inspector concluded that the proposal conflicted with the development plan. However, the Inspector gave significant weight to the lack of 5-year housing land supply and the potential contribution of small sites. The presumption in favour of sustainable development outweighed the conflict with the development plan.</p>
21	<b>FG/54/22/PL R/O 1 Sea Drive</b>	1 No new dwelling.	R-R-D	<p>WR</p> <p>The main issue was the effect on the character and appearance of the area.</p> <p>The Inspector found that most of the bulk of each dwelling in both appeals would be sited well forward of the general building line to the North on Sea Lane and both proposals would be harmfully intrusive. Also, the dwellings would look bulky and unbalanced relative to neighbours.</p> <p>The Inspector found the extensive use of hardstanding and limited room for planting would result in an overly cramped development that diminishes the open and green character of the area.</p>

				<p>The Inspector considered overlooking as an issue which was not identified by the LPA. However, it was concluded that some mutual overlooking from upper floors in the BUAB is to be expected and the existing owners of the property would expect this overlooking, and that future occupiers would not choose to occupy the dwelling if not desired.</p> <p>The previously approved scheme was identified as a fallback by the appellant. However, the Inspector noted the disposition and bulk of a different scheme on the site would likely be significantly different and little weight was given to this claim as a fallback.</p> <p>Both appeals were dismissed.</p>
22	<b>FG/134/22/PL</b> <b>R/O 1 Sea Drive</b>	1 No new dwelling (Resubmission of FG/54/22/PL)	R-R-D	<p>WR</p> <p>The main issue was the effect on the character and appearance of the area.</p> <p>The Inspector found most of the bulk of each dwelling in both appeals would be sited well forward of the general building line to the North on Sea Lane and both proposals would be harmfully intrusive. The dwellings would look bulky and unbalanced relative to neighbours.</p> <p>The Inspector found the extensive use of hardstanding and limited room for planting would result in an overly cramped development that diminishes the open and green character of the area.</p> <p>The Inspector considered overlooking as an issue which was not identified by the LPA. However, it was concluded some mutual overlooking from upper floors in the BUAB is to be expected and that the existing owners of the property would expect this overlooking, and that future occupiers would not choose to occupy the dwelling if not desired.</p> <p>The previously approved scheme on this site was identified as a fallback by the appellant. However, the Inspector noted the disposition and bulk of a different scheme on the site would likely be significantly different and little weight was given to this claim as a fallback.</p>



				Both related appeals were dismissed.
23	<b>WA/39/22/PL Cherry Tree Nursery, Eastergate Lane</b>	Continuation of use of land for the stationing of 14 No agricultural workers caravans for a temporary period of 3 years	R-R-ALC	<p>WR</p> <p>The main issues were whether the caravans are justified, having regard to the development plan &amp; other material considerations and the effect on the living conditions of the occupiers of adjoining dwellings, with particular reference to noise &amp; disturbance.</p> <p>The Inspector agreed the caravans were not needed for a specific enterprise or on the same site. This meant conflict with policies. However, there was a need identified for accommodation to serve sites in the wider area and the development plan is silent on how needs will be accommodated in the BUAB.</p> <p>The Inspector found no evidence had been offered by the council as to the residential amenity impact. The Inspector noted no concerns from neighbours, the Police or from Environmental Health.</p> <p>The Inspector stated material considerations exist to justify development otherwise than in accordance with the development plan.</p>
24	<b>BN/110/22/PL 1 Como, Barnham Road</b>	Erection of 1 No 2-bedroom bungalow with associated parking, bin and bike stores and landscaping (resubmission following BN/142/21/PL)	R-R-D	<p>WR</p> <p>The main issue was the effect on the character and appearance of the surrounding area.</p> <p>The Inspector found the dwelling would be poorly related to the street, the site would be overly built up in terms of area of buildings and hardstanding and incongruous when viewed from the public footpath. The openness of the area to the rear of properties on the street was important to local character.</p> <p>The Inspector concluded the previous approval for a part one and part two storey side extension did not set a precedent as the proposal would have preserved more openness and greenery. They did not find significant harm to residential amenity which was incorporated in the reason for refusal, however found sufficient harm on character and appearance grounds alone to conclude that the harm outweighed the benefits.</p>
25	<b>FP/84/22/PL 7 Ambleside</b>	Erection of 1 No three-bed	R-R-ALC	WR

	<b>Close</b>	detached dwelling (resubmission of FP/86/21/PL)		<p>The main issues were:</p> <ul style="list-style-type: none"> <li>- Impact on character and appearance of the surrounding area.</li> <li>- The living conditions of nearby occupiers with regard to outlook and privacy.</li> </ul> <p>The Inspector found the siting of the house respecting the front building lines and being well related to the street. Its design which included a sympathetic roof would help the dwelling to blend in with its surroundings. The detached nature of the house would make its distinct pattern of opening acceptable. There would be sufficient parking and amenity space retained.</p> <p>The Inspector found the dwelling would be visible from the neighbouring gardens but it would not be so overbearing as to harm living conditions. They identified a degree of overlooking from upper floor windows but concluded this was usual in built up area and did not harmfully diminish privacy.</p> <p>The Inspector concluded the proposal did not harm character and appearance and the proposal complied with D DM1, having minimal impact on users and occupiers of nearby land.</p>
	<b>A/256/22/PL Downsview, Littlehampton Road</b>	Sub-division of existing residential curtilage and erection of 1no. 4-bedroom chalet bungalow and detached single garage	R-R-D	<p>WR</p> <p>The main issue was if the development would have reasonable access to local shops and services by means other than by car.</p> <p>The development was outside of the built-up area boundary and in the Angmering and Worthing settlement gap. The boundary of the BUAB is on the opposite side of the A259.</p> <p>As the detrimental effect on openness would be confined to the site of an existing dwelling, the Inspector found the proposal would not undermine the visual and physical separation of settlements and the proposal would not undermine the integrity of the settlement gap.</p> <p>Although in reasonable proximity, access to public transport was poor due to the hazardous nature of the road. This would reduce attractiveness of walking and cycling.</p> <p>The Inspector concluded access to shops and services was</p>

				unacceptably poor and the proposal was contrary to the development plan as a whole.
27	<b>Y/176/21/PL Bonhams Field, Main Road</b>	Variation of condition following grant of Y/63/19/RES relating to Condition 1 - approved plans	R-R-D	<p>WR</p> <p>The main issues were:</p> <p>(i) the effect of on the setting of Yapton Conservation Area (CA) and whether the development would preserve the setting of listed buildings in the vicinity of the appeal site; and</p> <p>(ii) the effect on the character and appearance of the surrounding area.</p> <p>The Inspector found harm to the significance, and ability to appreciate the significance of, the CA and the relevant listed buildings in this appeal, through harm to the setting. It was determined that the harm was 'less than substantial.' Limited public benefits had been identified and these were of low weight compared to the harm. Harm was also found to the character &amp; appearance of the area.</p> <p>The Inspector concluded the harm to the CA and listed buildings is not outweighed by the public benefits in this case. This disengages the 'tilted balance' as it provides a clear reason for refusing the development. With the additional harm to character, the level of overall is significant and not outweighed by material considerations.</p>
	<b>LU/385/22/PL Garage compound, Colebrook Road</b>	Construction of 3 No garages on existing garage compound	R-R-ALC	<p>WR</p> <p>The main issue was:</p> <ul style="list-style-type: none"> <li>- The effect on the occupiers of 27 Colebrook Road, as regards noise and disturbance.</li> </ul> <p>The Inspector found that, as the garages would be made from substantial, permanent materials, with a path and fence between them and their nearest neighbour, the only significant sources of noise would be car engines and the opening/shutting of garage doors.</p> <p>The Inspector found no evidence the garages would give rise to an unacceptable level of noise, and similar levels of noise could be generated though the use of the site as parking. The garages would not result in significantly more intrusive noise or disturbance.</p>
29	<b>K/22/22/PL Land east of</b>	3 No stables and a barn	Dis DC Comm R-D	WR

## Kingston House

The main issues in this appeal are:

- The effect on the character, appearance, and function of the East Preston and Ferring gap.
- Whether the site would be in a suitable location with respect to bridleways or other suitable routes available to horse riders.

The scale and materials of the barn would result in a more modern agricultural barn than that of a traditional rural barn. Though conditions could be used to ensure an appropriate colour. Layout would jut out at a right angle into the site resulting in a conspicuous built form that is obtrusive and out of keeping for the open character.

The stables were acceptable traditional design but jut out into the site (albeit in a corner) and would face hardstanding where vehicles (agricultural or otherwise) could be parked, once again being unduly prominent.

No sufficient evidence was provided to justify the 'minimal' or 'ancillary' needs of the proposal which appears to be more appropriate for a commercial equestrian setting than private and minimal use.

The proposal would cumulatively extend this isolated cluster of buildings and encroach further into the countryside. Albeit by a small amount, causing a localised reduction in the extent of the gap and diminish its purpose.

Whilst a previous stables were granted (albeit a different design etc) the permission had expired and this appeal was determined on its individual merits, being a site with no fallback position.

The development would have a significant adverse impact on character, appearance, and function of the East Preston and Ferring gap.

It does not comply with Policies EQU DM1(a), D DM1 and SD SP3 of the Arun Local Plan 2018 (the LP) or with Policies KPNP2 or KPNP3 of the Kingston Neighbourhood Plan 2014 (the NP).

				<p>There is no bridle network next to or near the site. Public footpaths should not be used by horse riders. Nearest bridleway a mile away. The nearby public highways can be used by riders but would not be conducive to a safe or pleasant experience.</p> <p>Horses could easily be transported by vehicle to the nearby bridleways and new Pegasus crossing suggests expected future demand for horse riders to cross the A259 to the bridle network.</p> <p>Kingston Lane south appears to be conducive to horse riding without interfering unduly with users and leads to open greenspace that is a BOAT and could be used by riders. Consequently, it complies with LP Policies EQU DM1(b) and T SP1.</p> <p>Concluded that design/layout was unacceptable but it was safely and sufficiently connected to suitable horse-riding networks/networks usable by riders.</p>
Page 201	<p><b>BE/30/23/HH</b>  <b>2A Stroud Green Drive</b></p>	<p>Erect 2m high boundary fence.</p>	<p>R-R-D</p>	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- effect on character and appearance of the surrounding area</li> </ul> <p>Little weight attached to applicants concerns re: privacy and security as street facing bedrooms are not unusual for bungalows.</p> <p>Other tall fencing in locality differ from proposal and provide little support for this damaging proposal. Most front and side boundaries are open and the nearby street scene within Chalcraft Lane is characterised by the openness and greenery on both sides of the road.</p> <p>Suggested changes to retain fence at current height, include a trellis or set in from pavement by leaving a green buffer would not outweigh harm to street scene and to the sense of place. As little of the original fence permitted in 2009 under a different development plan exists it attracts minimal weight.</p> <p>The Inspector concluded the fence would harm the character and appearance of the surrounding area contrary to D DM1, ADG and the</p>

				NPPF which seeks well-designed places and sympathy for local character.
31	<b>BN/130/22/T 133 Farnhurst Road</b>	Tree A – Fell Tree B – crown reduction	R-R- split decision ALC/D	<p>WR</p> <p>Split Decision:</p> <ul style="list-style-type: none"> <li>- The appeal is dismissed as it relates to the reduction of all limbs by 2m height to leave 12m and laterals 4m to leave 2m to oak (B).</li> <li>- The appeal is allowed as it relates to the felling of oak (A)</li> </ul> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- Effect on character and appearance of the area and if works were justified.</li> </ul> <p>The Inspector gave significant weight to the previous decision to fell tree A in 2017 and found little to be changed since that decision, the tree is leaning and will continue to worsen. Its removal will benefit tree B which is to be retained.</p> <p>The Inspector found the reasons for the reduction work to tree B to carry little weight as based on concerns relating to matters common to tree owners and ones that go hand-in-hand with living in a mature landscape (access/light). Agreed with LPA that tree B will need careful future management. A more rounded assessment of current shape and condition of tree B could be made once tree A felled. The moderate harm as a result of the pruning works to tree B is not outweighed by matters raised but the previous permission to fell tree A carries significant weight and justifies removal.</p>
32	<b>WA/107/22/PL Morelands, Arundel Road, Fontwell</b>	4 No dwellings, associated car parking and access.	R-R-D	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- The character and appearance of the surrounding area</li> <li>- Effect on the Singleton and Cocking Tunnels Special Area of Conservation and protected habitats and their species</li> </ul> <p>The Inspector found although one dwelling had been removed and the position of other dwellings slightly altered, the awkward relationships identified in the previous application and appeal persisted. The distance between buildings and the road and the lack of potential for planting in the intervening space remained a concern. Poor relationship with the road was a concern for one of the dwellings, as well as lack of garden space and poor outlook from one</p>

				<p>of the dwellings. Houses were judged to be unacceptably squeezed in. Although the overall density is lower than on other nearby developments, the pattern of development was seen as out of character with the local pattern of development.</p> <p>The PEA did not mention the SAC and the impact of increased activity in the buffer zone was not assessed and although the existing dwelling had been assessed as having high bat roost potential, no mitigation measures have been proposed. The mitigation measures identified in the reptile survey were inappropriate and incomplete. The Inspector found these issues should not be dealt with via conditions after approval, which had been suggested by the applicant. Harm to character/appearance and protected species was seen to outweigh possible benefits.</p>
33	<b>FG/124/22/PL Lansdowne Nursery and The Barn, Littlehampton Road</b>	Demolition of existing buildings and erection of 70 No. dwellings with associated works (site relocation to Clapham).	R-R-D	<p>Hearing</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- effect on the character and appearance of the area, including the setting of the South Downs National Park (the National Park) and Highdown Hill Camp.</li> <li>- the effect of the development on the economy.</li> <li>- the effect of the development in relation to agricultural land and soils; and</li> <li>- whether public open space provision would be acceptable.</li> </ul> <p>The Inspector gave considerable weight to the fact that the site is outside the built-up area, the harm on Highdown Hill Camp Scheduled Ancient Monument and the setting of the National Park. They considered the development, which had an urban character out of keeping with the locality. The impact on views from the Downs was given weight.</p> <p>The Inspector concluded the potential of the site as agricultural land was unlikely to be realised and disagreed with this reason for refusal. They concluded the effect on the economy could be mitigated through a condition requiring the existing business to be relocated. The Inspector concluded the provision of public open space was acceptable given the access that residents would have to other open spaces, such as Highdown Hill and the position of the open space close to the A259 did not necessarily make it unattractive. The Inspector questioned whether swales should be treated as drainage</p>

				features and excluded from the open space calculations, as they would be publicly accessible.
34	<b>R/276/22/HH 15 The Martlets</b>	Erection of boundary fence.	R-R-ALC	<p>WR</p> <p>Main Issues:</p> <ul style="list-style-type: none"> <li>- Impact on character and appearance of area.</li> </ul> <p>Open character of the area informed by open plan condition and most notable within central parts of the estate. Inspector found that as the property was to the edge near garages and walls of blocks of flats that it did not read as part of the main open character. Inspector did not feel that the plot in question should need to reflect the open and attractive plot it mirrors to the north of the estate as the other plot is at the entrance and as aforementioned, the host is within a tighter urban grain at the edge.</p> <p>Oddly, the inspector identified the fence as encompassing the main garden of the plot as it is side-on to the highway. Unclear as to how this conclusion was made as the plot benefitted from a designated private rear garden also to the rear of the dwelling.</p> <p>The inspector also concluded that the enclosure of the site provided a safe and secure private space for occupants. And that contrary to Sussex Police advice against tall boundary treatment, that this close boarded 1.8m tall fence surrounding the property was not of a height that would obscure the view of the main property and did not apply. *This appears illogical as this 1.8m solid fence fully obscures any view of the ground floor of the site from ground level and that the Police advice referred to recommends 1m or lower*.</p> <p>Allowed with plans condition only. No non-standard conditions.</p>
35	<b>LU/347/22/PL 27 Clifton Road</b>	Retention of first floor 10 No room HMO and 1 No flat at first floor (resubmission following LU/60/22/PL)	R-R-ALC Costs - Dismissed	<p>Hearing</p> <p>Main Issues:</p> <ul style="list-style-type: none"> <li>- Suitability of accommodation given flood risk.</li> <li>- Housing need.</li> <li>- Planning balance.</li> </ul> <p>The Inspector found that without access to safe refuge and with sleeping accommodation located to the ground floor there would be a risk to life. This is in conflict with the PPG. The ten-year limit would reduce risk however the risk still stands. This is given significant</p>



36	<b>LU/350/22/PL 27 Clifton Road</b>	Temporary change of use for 10 years of the ground floor to a 10 bed HMO (Sui Generis) including alterations/rearrangement of existing ground floor C3 unit (permanent).	R-R-D	<p>weight against the provision of housing.</p> <p>Hearing Main Issues:</p> <ul style="list-style-type: none"> <li>- Suitability of accommodation given flood risk.</li> <li>- Adequacy of amenity space.</li> <li>- Quality of open space.</li> <li>- Housing need.</li> <li>- Planning balance.</li> </ul> <p>Unlike GF accommodation there is safe refuge for occupiers of the 1<sup>st</sup> floor. Wider sustainability benefits should be considered including the provision of housing. Planning balance found the benefits outweighs the harm.</p> <p>The under provision of amenity space is relatively small, it is broadly useable and enjoyable. Quality of space not exemplary but adequate. Other local open spaces as fall back. Planning balance found the benefits outweighs the harm.</p>
Page 205	<b>AL/179/22/OUT Land to south of Dukes Road</b>	Outline application with some matters reserved, except access and layout, for the erection of 9 No dwellings (resubmission following AL/39/22/OUT).	R-R-D Costs - Dismissed	<p>WR The main issues were:</p> <ul style="list-style-type: none"> <li>- Whether the site is a suitable location.</li> <li>- The effect on the character and appearance of the area.</li> </ul> <p>The Inspector agreed that the site was an unsuitable. The site is outside the built-up area boundary and far from services. Public transport is available but is some distance from the site and access to the would be via Duke's Lane. The Inspector concluded this would give rise to unacceptable increased risk of vehicular and pedestrian conflict, accident or injury and that residents would be reliant on cars.</p> <p>The inspector found the access via a service road running parallel to Duke's Road would be out of keeping with the surroundings. The proposal would fill the only significant gap in buildings along the south side on Duke's Road and erode the semi-rural feel. The open land provided would be to the rear of the dwellings and would not mitigate this impact. The Inspector addressed the tilted balance but concluded that the location was nevertheless unsuitable.</p>
38	<b>AL/39/22/OUT Land to south of Dukes Road</b>	Outline application with some matters reserved (appearance, landscape, and scale) for the	R-R-D Costs - Dismissed	<p>WR This appeal was determined at the same time as the appeal for the resubmission (AL/179/22/OUT). The proposals were identical, and</p>

		erection 9 No. residential dwellings.		both appeals were considered as one and determined on the same basis.
39	<b>Y/139/22/PL Bilsham Manor, Bilsham Lane, Bilsham, Yapton</b>	1 No dwelling including the reuse of part of the existing outbuilding, existing leylandii boundary hedge will be removed and replaced with a 1.8m close boarded fence, planted with native hedgerow and garden redesign.	R-R-D	<p>WR</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>- the impact on the setting of the listed building.</li> <li>- whether the proposal would be safe from flooding.</li> </ul> <p>The Inspector concluded the proposals would make the garden and the historic setting of Bilsham Manor smaller and the Manor's historic relationship with the rife would be lost. Ability to appreciate the significance of the listed building from the back garden and the lane would be diminished. The dwelling aims to reflect a converted ancillary building, which would be incongruous in Bilsham Manor's private garden. The scale, bulk and materials were out of keeping, together with the dwelling's generous glazing. The driveway and tall fences added to this effect. The development fails to respect the historic development pattern, including the relationship between the Manor and Chapel when viewed from Bilsham Manor.</p> <p>In light of the fact that the proposal identified no flood risk, and an FRA was not provided, the Inspector concluded there was insufficient evidence that the requirements of policy W DM2 would be met. The access in particular was considered likely to flood.</p>
40	<b>Y/127/22/PL Lintels, Bilsham Road, Yapton</b>	Change of use of existing garage to 1 No 3-bed dwelling, separate to the main dwelling, including side extension.	AC-AC-ALC	<p>WR</p> <p>The appeal concerned condition 3 which stated that: <i>"All windows above ground floor level on the north-western (rear) elevation of the building shall be glazed with obscured glass and non-opening below 1.7m from finished floor level. The windows shall remain non-opening and obscure glazed in perpetuity."</i></p> <p>The Inspector allowed the appeal and amended the condition to state: <i>"Notwithstanding the details given on the approved plans, the dwelling hereby permitted shall not be occupied until all parts of the first floor rear (north west) facing windows that are less than 1.7 metres above the finished floor level of the rooms in which they are installed have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the finished floor level of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and</i></p>

				<p><i>approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained as approved thereafter."</i></p> <p>The Inspector agreed with the need for the condition due to privacy concerns but determined its current wording was too onerous as it would require all the glazing in the rear facing windows to be obscured.</p>
41	<b>FP/216/22/HH 29 Andrew Avenue, Felpham</b>	Retrospective proposal for the relocation of side fence and hedging to within ownership boundary	R-R-ALC	<p>WR</p> <p>Main Issues:</p> <ul style="list-style-type: none"> <li>- Loss of open character</li> </ul> <p>The Inspector concurred that the appearance of the fence was acceptable. Although, did not feel that the relocated fence detracted from the open character of the estate. He also found that some other corner plots within the estate demonstrated fencing/hedging in similar arrangements that did not detract from the openness of the estate and that the area incorporated within the relocated fence was modest.</p> <p>Inspector interpreted Section H of the ADG appears to relate to new development and that it does not appear directly relevant to the loss of open character from alterations to existing plots such as this.</p> <p>Allowed with conditions:</p> <ul style="list-style-type: none"> <li>- Included condition to retain Laurel hedge that had been planted to side of fence and reinstate it if it dies within 5 years.</li> </ul>
42	<b>WA/101/22/PL Brookfield Farm, Eastergate Lane,</b>	2 x detached 4-bedroom dwellings	R-R-ALC	<p>WR</p> <p>Main Issues:</p> <ul style="list-style-type: none"> <li>- Availability of the best and most versatile agricultural land (BMVAL).</li> <li>- Character and appearance of the area.</li> </ul> <p>The inspector concluded that there was no evidence whether the land was 3 a or 3 b, using precautionary approach deemed it to be 3a. Land under 1 hect however policy does not stipulate size requirements. Although no report required, it did not met the criteria of policy.</p> <p>The style, size and form of development commensurate to the other properties along lane. Spacious development no loss/impact to open</p>

				views. No harm the overall quality of the character and appearance of the area.  Permanent loss of BMVAL given significant weight in planning balance over provision of 2 homes.
43	<b>WA/80/21/OUT Land to the east of Yapton Lane</b>	Outline application with all matters reserved (except access) for up to 75 No. dwellings.	R-R-D Costs - Dismissed	WR The main issues were: <ul style="list-style-type: none"> <li>- Whether the site is a suitable location for housing.</li> <li>- Effects on character and appearance (including Walberton Conservation area and listed buildings).</li> <li>- Loss of best and most versatile agricultural land.</li> <li>- Lack of S106 securing affordable housing and A27 mitigation.</li> </ul> The Inspector found the location was contrary to policy and that Yapton Lane formed a boundary beyond which housing would not be appropriate, as the rural character persists for a great distance to the east. The Inspector agreed there would be substantial harm to the area's rural character and appearance and identified limited harm to heritage assets. Conflict with policy SO DM1 was identified but this was not given great weight, particular as the local plan policy was seen as significantly more restrictive than the NPPF in this respect. S106 issues were largely resolved by the time of the appeal, with affordable housing secured. Although they identified significant conflict with Local Plan policies and significant harm, the Inspector gave limited weight to individual adverse impacts, given Arun's housing land supply shortfall. Even so, the cumulative effect of these outweighed the benefits of the development.
44	<b>AL/126/22/OUT, The Paddock, Littleheath Road</b>	Outline application (with some matters reserved) for 9 new dwellings (houses and bungalow) with wildlife corridors following demolition of existing 4-bedroom chalet bungalow and assorted outbuildings.	R-R-D	WR The main issues were: <ul style="list-style-type: none"> <li>- Effects on the character and appearance of the area, and accordance with related policies that guide the location of housing development.</li> <li>- Whether the proposal would create acceptable living conditions for future occupants when regard is paid to noise.</li> <li>- Whether the proposal would create acceptable living conditions for future occupants when regard is paid to air quality.</li> </ul>

				<p>The Inspector found harm to the future living conditions of the residential occupiers due to the need to keep windows closed to mitigate noise from the A27. The Inspector stated:</p> <p>“Being able to open windows (and patio doors) in a dwelling is an essential part of everyday life, and something which most people take for granted. Forcing future residents to make a choice between opening windows and tolerating road noise at the levels identified in the Appellant’s noise evidence would create an oppressive living environment, inconsistent with the principles of good design.”</p> <p>The Inspector gave moderate weight to the harm to character, limited weight to the countryside location, limited weight to the site’s accessibility but substantial weight to the harm arising from noise pollution. Weighed against this were benefits to HLS (significant weight) and economic benefits (moderate weight).</p> <p>The Inspector concluded the proposal would not meet the definition of sustainable development at a very high level because it would fail to provide acceptable living conditions when regard is paid to noise. This was the key determining factor and outweighed the benefits.</p>
609	<p><b>AL/69/23/HH Reed Cottage, Westergate Street</b></p>	<p>Erection of detached garage with room above and 1 x dormer following the demolition of existing detached garage.</p>	<p>R-R-ALC</p>	<p>WR</p> <p>The main issues were the effect of the proposed development on:</p> <ul style="list-style-type: none"> <li>(a) The character and appearance of the host property and surrounding area;</li> <li>(b) The living conditions of the neighbouring occupiers at 23 Belle Meade Close.</li> </ul> <p>The Inspector found that the surrounding area has no uniform character, with properties varying in siting, layout, form, scale, age and materiality. They also noted that the neither the garage nor the host property form part of the established street scene.</p> <p>The Inspector did not agree that the scale and height of the proposed building would appear as an unduly dominant structure that would be out of character with the development of the site. They argued that the proposed would represent a high quality of design that would be in keeping with the design of the host and a significant improvement on the existing unsightly garage and adjoining temporary structure.</p>

				<p>The Inspector was satisfied that this proposal has addressed the majority of the previous inspectors concerns. They concluded that it would not appear as an unduly dominant structure and would not be out of character. It would instead represent a sympathetic, appropriate, and high quality outbuilding and would accord with D DM1 of the Arun Local Plan.</p> <p>The Inspector also found that the height, length and siting of the garage would not have any significant overbearing or overshadowing impact on the garden or rear windows of No.23 nor any other neighbours.</p> <p>They were satisfied that the proposed garage would not conflict with the aims and objectives of the SPD Guide, and that the level of impact on the outlook and light to No.23 would be modest. They concluded that the appeal proposal would not result in any significant harm to the living conditions of the occupiers of No.23 or any immediate neighbours, and would comply with policy D DM1 of the Arun Local Plan.</p>
	<p><b>AL/178/22/OUT Land to the rear of Meadow Way, Westergate</b></p>	<p>Outline planning application with all matters reserved, other than principal means of access and demolition of 24 Meadow Way, for the construction of up to 89 residential dwellings, with access taken from Meadow Way, together with the provision of open space, landscaping, and associated infrastructure.</p>	<p>R-R-ALC Costs part allowed</p>	<p>Hearing The main issues were:</p> <ul style="list-style-type: none"> <li>• Whether the site would be suitable for housing, with particular regard to the development plan's spatial strategy for the location of housing.</li> <li>• The effect of on best and most versatile agricultural land (BMVAL); and</li> <li>• The effect on living conditions of occupants of nearby residential properties, with particular regard to noise and disturbance.</li> </ul> <p>The Inspector determined the location would not accord with the spatial strategy for housing in the district but due to the location and HLS shortfall, this attracted moderate weight.</p> <p>Moderate weight was attached to the loss of agricultural land because of the need to build in such land to overcome the HLS shortfall.</p> <p>The Inspector determined there would be changes to the levels of noise and disturbance experienced in the rear gardens and houses of</p>

				<p>the residential properties at 23 Meadow Way and 1 to 9 Lamorna Gardens. The evidence demonstrated these changes would be noticeable, but not harmful.</p> <p>The benefits attracted significant weight so the planning balance found in favour of allowing the appeal.</p> <p>Costs were awarded in part relating to residential amenity issue as the council had not supplied technical evidence in response to the appellants noise report.</p>
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# Arun District Council



## Arun District Council

<b>REPORT TO:</b>	<b>Planning Committee 14 February 2024</b>
<b>AGENDA ITEM:</b>	
<b>SUBJECT:</b>	Planning Application R/230/23/HH
<b>LEAD OFFICER:</b>	<b>Daniel Bainbridge, Group Head of Law and Governance and Monitoring Officer</b>
<b>LEAD MEMBER:</b>	Cllr Hamilton
<b>WARDS:</b>	<b>Rustington</b>
<b>CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:</b>	
Council scheme of delegation and Planning Protocol as set out in the constitution (Part 7 section 2 Para 2.1.3 and Part 8 section 3 (Planning Protocol) paragraph 6.2 of the constitution.	
<b>DEPARTMENTAL POLICY CONTEXT:</b>	
N/A	
<b>FINANCIAL SUMMARY:</b>	
N/A	

### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to explain why a determination of a planning application made by an officer in error should be determined by committee.

### 2. RECOMMENDATIONS

- 2.1 To consider the report and recommendations of the Planning Officer.

### 3. EXECUTIVE SUMMARY

- 3.1 This application was considered and determine by an officer under delegated authority. It has come to light that the application was a “Member application” and as such could only have been determined by committee. The matter is now brought to committee for a determination.

### 4. DETAIL

- 4.1 The Application was submitted in November 2023 by an agent for the householder. The applicants are District Councillors and therefore, under council procedures, should have been treated as a Member application. Whilst the applicant had completed the application forms correctly, this was not picked up at validation when it should have been ad the applications was therefore not identified to the case officer as an application from an elected member. The Group Head of Planning and of Law & Governance were unaware of that an application had been submitted by a Councillor.

4.2 The application was determined by the Group Head of Planning (and Officers acting under their delegated authority) on 15 January 2024. That determination was outside the delegated powers of the officer, as the application should have come before the Planning Committee for determination as this is a ‘Councillor application’.

4.3 The Committee should treat the application as if the original decision had not been made.

## **5. OPTIONS / ALTERNATIVES CONSIDERED**

5.1 It was considered that to do nothing was not an option as the decision goes to the heart of the Council’s planning protocol and standards of conduct.

## **6. CONSULTATION**

6.1 The applicants have been consulted and the Councillors have confirmed that no implementation will take place until after the Committee meeting. They also acknowledge that the application should be dealt with in accordance with the considered by the Planning Committee.

## **7. FINANCIAL CONSIDERATIONS**

7.1 There are no financial implications for the purposes of this report.

## **8. RISK ASSESSMENT CONSIDERATIONS**

8.1 There is a risk that the public may or anyone else might challenge the decision as not being in accordance with the highest standards of propriety as set out in the Council’s Constitution.

## **9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

9.1 This matter is covered by Part 7 section 2 Para 2.1.3 (Officer scheme of delegation) and Part 8 section 3 paragraph 6.2 (Planning Protocol) of the constitution. This states that applications submitted by Councillors will be determined at Planning Committee.

## **10. HUMAN RESOURCES IMPACT**

10.1 None for the purposes of this report.

## **11. HEALTH & SAFETY IMPACT**

11.1 None for the purposes of this report.

## **12. PROPERTY & ESTATES IMPACT**

12.1 None for the purposes of this report.

## **13. EQUALITIES IMPACT ASSESSMENT (EIA)**

13.1 None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

**14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT**

14.1 None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

**15. CRIME AND DISORDER REDUCTION IMPACT**

15.1 None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the officer report.

**16. HUMAN RIGHTS IMPACT**

16.1 None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the Officer report.

**17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS**

17.1 None for the purposes of this report and for the purposes of the determination the relevant considerations are contained in the Officer report.

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**CONTACT OFFICER:**

Name: Daniel Bainbridge  
Job Title: Group Head of Law and Governance  
Contact Number: 01903 737607

**BACKGROUND DOCUMENTS:** Planning Officer Report January 2024

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Recommendation Report for Planning Permission for Works or Extension to a Dwelling

REF NO: R/230/23/HH

LOCATION: 27 Preston Paddock  
Rustington  
BN16 2AA

PROPOSAL: Front and rear single storey extensions.

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	This application seeks to construct a single storey rear extension and a single storey front extension.
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<b>REPRESENTATIONS</b>
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Rustington Parish Council - No objection.

No representations from nearby occupiers.

**CONSULTATION RESPONSES RECEIVED:**

None.

**DEVELOPMENT PLAN POLICIES**

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)

[Rustington Neighbourhood Plan 2014 Policy 2](#) Housing Design

**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD13	Arun District Design Guide (SPD) January 2021
RDS	Rustington Design statement by Rustington Parish Council

<b>CONCLUSIONS</b>
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**PRINCIPLE**

The key Development Plan policies relevant to this proposal are D DM1 & D DM4 of the Arun Local Plan (ALP) and Policy 2 of the Rustington Neighbourhood Development Plan (RNP).

Section M of the Arun Design Guide and Charcater Area 5 of the Rustington Village Design Statement (RVDS) also provide design guidance of relevance.

## CHARACTER & DESIGN

The proposed extensions are single storey, featuring a combination of pitched and flat roof designs and low overall height. They would both maintain the existing eaves height of the dwelling and would be shallow in depth, but longer in width. The front extension would remain set back from an existing front gable ended projection, set back a substantial distance from the street, and would respond to the existing features and opening of the front elevation. The rear extension would not be visible from the wider locality.

Both components would remain visually subservient to the host dwelling and by virtue of their form and choice of materials, would remain integrated with the host dwelling and sympathetic to its character.

The proposals would have no adverse visual impact on the character of the locality and are in accordance with the principles set out by Section M of the Arun Design Guide and Character Area 5 of the RVDS.

The proposal is in accordance with policies D DM1 & D DM4 of the ALP, and Policy 2 of the RNP.

## NEIGHBOURING RESIDENTIAL AMENITY

The scale and siting of the proposals are such that they would not intersect any 45-degree sightlines or light accessibility lines from any neighbouring dwellings. There would also be no new viewpoints that are significantly different to the existing, and they would remain at ground-floor level with internal views only.

By virtue of not giving rise to any significantly adverse impacts by way of overshadowing, overbearing, or overlooking on neighbouring properties, the proposals are in accordance with policies D DM1 & D DM4 of the ALP.

## SUMMARY

The proposals are in accordance with relevant Development Plan policies and as such, they are recommended for approval subject to the following conditions and informatives.

### HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the

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following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

**CIL DETAILS**

This application is not CIL liable.

**RECOMMENDATION**

**APPROVE CONDITIONALLY**

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Block Plan 23/54/3.
- Location Plan 23/54/4.
- Existing and Proposed Plans and Elevations (Dwg No. 23/54/1).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policy D DM1.

3 The materials and finishes of the external walls and roof (excluding the flat roof section) of the extensions hereby permitted shall match in colour and texture those of the existing building.

Reason: In the interests of amenity in accordance with Arun Local Plan policies D DM1 & D DM4.

4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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