

PLANNING APPLICATION REPORT

REF NO:	BN/144/22/OUT
LOCATION:	Nuthatch Wandleys Lane Fontwell Eastergate PO20 3SE
PROPOSAL:	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.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
	<p>The proposal is outline with all matters reserved except access. The indicative site layout shows a new access directly off of Wandleys Lane into the site. This would lead onto a track through the site from north to south which spurs towards its southern most point east.</p> <p>It shows 4 dwellings, 3 of which would be situated to the east of the access track with the other dwelling to the south. The northern most dwelling would face north towards the highways and would be served by a cart barn with space for 5 vehicles to park. The indicative plans show that the dwellings would be two-storey and detached with plot 1 being of brick and brick hanging tiles with a brick tiled pitched roof. Plot 1 is also shown to have dormers on the first floor and a chimney. Plot 5 would have horizontal dark stained weatherboard cladding for the walls and brick tiled pitched roofs. It would also have large windows on the principal elevation. Two of the dwellings are shown as having catslide roofs.</p> <p>Each plot would be served by large rear gardens and there would be landscaping throughout the site, seen with tree and hedgerow planting.</p>
SITE AREA	0.5 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	10 dwellings per hectare.
TOPOGRAPHY	Predominantly flat
TREES	A category C hazel and category C hawthorn would be removed to facilitate the development shown in the indicative site layout.

BOUNDARY TREATMENT

The site is bounded to the east by a tree line, beyond which is the curtilage of the neighbouring property Nuthatch. To the south is 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 associated with Studlands. To the north is Wandleys Lane.

SITE CHARACTERISTICS

The application site comprises undeveloped agricultural grassland with some areas of degrading vegetation.

CHARACTER OF LOCALITY

The application site is situated 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 application site.

The dwellings immediately northeast of the site are mainly one storey detached dwellings and outbuildings with white/pink render for the walls and tiled pitched roofs. One of the buildings has an upwards extension with timber weatherboarding on its walls and a brick tiled roof. The dwellings in Fontwell are typically one or two storey detached and semi-detached with red brick or rendered walls and dark coloured brick tiled hipped or gable pitched roofs. Many of the dwellings have chimneys and some have porches of matching materials. Plots are typically narrow with front parking spaces and rear gardens.

RELEVANT SITE HISTORY

WA/76/17/PL

Application of four Affordable Intermediate Sale Homes and one Full Market home with associated car parking, garaging, landscaping and bin storage and the creation of 2 new accesses onto Wandleys Lane. This application is a Departure from the Development Plan.

Refused
08-06-18

**Appeal: Allowed+Conditions
08-04-19**

REPRESENTATIONS

Barnham and Eastergate Parish Council objected to the proposed development as it is located outside of the Built-up Area Boundary, it is within open countryside and a historic land. It conflicts with Neighbourhood Plan policies ES1A, ES1B, ES14, ES16, ES17, ES10, ES15 and ES5.

1 objection

- Far too many buildings in this area causing congestion concerns.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:****ENVIRONMENTAL HEALTH:**

No objection in principle subject to conditions relating to contaminated land, electric vehicle charging points, construction management plan, construction hours, internal noise levels and external lighting.

WEST SUSSEX COUNTY COUNCIL HIGHWAYS AUTHORITY:

No objection but requested that speed survey data is provided in the appendix of the Transport Statement and a departure from standards (DFS) form is completed to assist with the S278 application.

DRAINAGE OFFICER:

No objection, however infiltration testing was done in July 2022. Whilst the infiltration rates prove that infiltration may be viable on the site, they cannot be used for the purposes of the design as they do not represent worse case conditions on the site. Infiltration testing will need to be repeated in mid-winter at the location and depth of proposed infiltration features and above peak groundwater level. A full winters groundwater monitoring will also need to be supplied to prove that groundwater will not influence the drainage of the site, this will be necessary even if infiltration is not viable to account for the risk of floatation. If infiltration is found to not be viable on the site, due to high groundwater levels or infiltration rates that are so slow that out half drain requirements cannot be met, then the applicant will need to investigate connecting surface water to the watercourse on the opposite side of Wandleys Lane. Third party permissions may be required to enable this connection, in addition to land drainage consent. The Officer also recommended a condition for the submission and approval of a proposed surface water drainage scheme.

SOUTHERN WATER:

No objection but it is possible that a sewer now deemed to be public could be crossing the development site. 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. 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.

ECOLOGY OFFICER:

No objection subject to securing biodiversity mitigation and enhancement measures. The Officer recommended a number of conditions relating to carrying out all mitigation and enhancement measures set out in the Preliminary Ecological Appraisal and the submission of a Construction Environmental Management Plan for biodiversity, a Biodiversity Enhancement Strategy, a wildlife sensitive Lighting Design Scheme and a condition relating to a time limit before further surveys are required.

SOUTH DOWNS NATIONAL PARK AUTHORITY:

No comments to make.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Sharp Sand and Gravel Minerals Safeguarding Area (MSA)

Outside of the Built-up Area Boundary

Biodiversity Corridor

CIL Zone 3

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

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
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HSP1	HSP1 Housing allocation the housing requirement
LANDM1	LAN DM1 Protection of landscape character
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

<u>Barnham & Eastergate Neighbourhood Plan 2019</u> <u>POLICY ES10</u>	Trees and Hedgerows
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES15	Green Infrastructure and Ecosystem Services
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES1b	Reducing Flood Risk
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES1c	Sewage
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES5	Quality of design
Barnham & Eastergate Neighbourhood Plan 2019 POLICY GA4	Parking and new development
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H1	Housing
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H5	Outdoor space
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H8	Settlement boundary

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, The South Inshore & South Offshore Marine Plan and MaBarnham and Eastergate Neighbourhood Development Plan 2019 - 2031. 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."

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

CONCLUSIONS**PRINCIPLE**

The Council cannot demonstrate a deliverable 5 year supply of housing. As such, in terms of paragraph 11 d) of the National Planning Policy Framework (NPPF) comes into play. This makes it clear that where development plan policies are out of date, planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

As the Council are unable to demonstrate at least three year supply of deliverable housing, the tests of NPPF para 14 are not met.

The proposal seeks to provide 4 dwellings outside of the built-up area boundaries, in the countryside. This kind of residential development does not fall within the list of development that may be permitted in

the countryside in policy C SP1 of the Local Plan. Similarly, no justification has been provided by the applicant to demonstrate that there is a need for the development to be located in the countryside as required by policy H8 of the Barnham and Eastergate Neighbourhood Plan.

The principle of the proposed development is not supported by the development plan, however, as Arun District Council are unable to demonstrate a five-year supply of housing, these policies are out of date and hold substantially less weight in the determination of the application. The fact that the principle of development is not supported by the development plan is not enough, individually, to warrant refusal of the application.

Notwithstanding the above, the key policies in the development plan that are relevant to the proposed development are SD SP1a, D SP1, D DM1, ECC SP2, ECC DM1, T SP1, T DM1, ENV DM1, ENV DM4, ENV DM5, W DM2 and W DM3 of the Arun Local Plan and policies ES5, ES10, ES13, ES15, GA4, H1, H4 and H6 of the Barnham and Eastergate Neighbourhood Development Plan.

To establish whether the proposal is acceptable in principle, we must therefore consider whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

DESIGN AND CHARACTER OF THE AREA

The scale, form, design and use of materials will be confirmed at the reserved matter stage. The indicative layout shows a road through the site with 4 dwellings situated to its east and south. The proposal would have a density of 10 dwellings per hectare which is not considered to be overdevelopment.

The indicative sketch shows that the dwellings would be of red/brown brick walls of varying tones and details, with red/brown brick pitched roofs, or dark stained timber weatherboarding walls and brown brick tiles pitched roofs. One dwelling is shown as having a catslide roof to provide a parking area. Garages may also be of dark stained timber weatherboarding. It is considered that the use of timber weatherboarding reflects the semi-rural agricultural character of the area. In addition, the use of brick is common on Wandleys Lane, particularly at the recent development at Woodfield Place (application reference WA/76/17/PL) and at Wandleys Farm. The cart barn parking structure shown on the indicative plans would also reflect the agricultural character of the area.

Overall, the indicative design of the dwellings would respect the character of the area in accordance with policies D SP1 and D DM1 of the Arun Local Plan and policy ES5 of the Barnham and Eastergate Neighbourhood Plan.

Full details of design would be secured at the reserved matters stage.

RESIDENTIAL AMENITY

The application site is situated adjacent to the dwellings associated with Nuthatch. The indicative layout shows that there would be tree planting on the eastern boundary of the site. The distance between plot 1 and the adjacent dwellings, and the use of boundary vegetation would avoid any adverse impacts to amenity between the two sites. There are no other external factors that would adversely impact on the proposed dwellings.

The dwellings are generally well separated and there would be no adverse impacts regarding amenity. The exception to this, however, is that the dwellings on plot 3 and plot 4 would only be circa 4.44 metres apart. As the application is outline with all matters reserved except access, elevations and floor plans

have not been provided, meaning that it is unclear whether the proposal would result in any overlooking between the two dwellings and/or loss of privacy. This matter would be dealt with in the reserved matters stage, however it is suggested that the applicant demonstrates how adverse impacts on amenity will not be created, in any subsequent reserved matters application.

The indicative site layout shows that each dwelling would be provided with spacious rear gardens. Plots 1, 2 and 3 would meet the standards set in the Design Guide for rear garden depths of 10.5 metres, however plot 4 would marginally fall short at circa 9.29 metres from the projecting part of the rear elevation.

It is noted that the side elevation of plot 4 would only be circa 4.44 metres from the principal elevation of plot 3 which falls significantly short of the Design Guide standards which requires a back/front to side separation distance of a minimum of 14 metres.

As the application is outline, the layout would be dealt with at the reserved matters stage. However, the illustrative layout demonstrates that the quantum of units proposed could come forward, with some minor modifications, in an acceptable way.

ACCESS

The proposal seeks to create a new access off of Wandleys Lane. The bell mouth would be 11 metres wide with visibility splays of 2m x 47m to the southwest, and 2m x 35m to the northeast. Further into the site, the proposed road would measure circa 5 metres wide. The access arrangements were agreed on as part of the pre-application advice submission, and as such, West Sussex County Council as local highway authority, raise no issues with the access and are satisfied that the site can accommodate turning movements of a pumping appliance and delivery van. The proposal therefore complies with policy T SP1 of the Arun Local Plan as it makes 'provision for safe access to the highway network through improvements to the existing road network'.

HIGHWAYS

A Transport Statement has been prepared by the applicant which confirms that there is an average of 204 eastbound and 210 westbound daily vehicle movements along Wandleys Lane. It calculated that the provision of 4 dwellings would create an additional 14 daily arrivals and 15 daily departures which it concludes as being negligible. West Sussex County Council stated that it 'does not consider this development to have any material capacity impacts'. The proposed development therefore accords with policies T SP1 and T DM1 of the Arun Local Plan which require development to avoid detrimental impacts on the highway network.

PARKING

As the application is outline with all matters except access reserved, the proposed housing mix has not been provided. The indicative layout shows that there would be 12 car parking spaces however it is unclear whether a visitor space would be provided. It must be ensured that at the reserved matters stage, final parking levels meet the requirements of the Council's Parking Standards.

FLOODING AND DRAINAGE

The application site is within Flood Zone 1 and at low risk of flooding. As discussed below, a drainage strategy is required to be submitted at the reserved matters stage. This will need to demonstrate that the development would not increase flood risk onsite or elsewhere.

A Drainage Impact Assessment has been prepared by the applicant which identifies that the site is within the Zone 1c (Zone 1 - Subsurface Activity) groundwater source protection zone. The Assessment sets out an indicative drainage strategy for the site, including that roof runoff will drain to cellular soakaways located in the back garden of each plot, at least 5 metres from buildings and that all hardstanding will be constructed as a permeable pavement with direct infiltration to the ground. It's calculated that the strategy demonstrates that the proposed SuDS features will manage runoff for all storms up to the 1% (1 in 100) annual probability (AP) events.

The Council's Drainage Officer commented that the proposed density of development or layout is not considered to prejudice the surface water drainage design and therefore they had no objection, however they recommended a condition requiring the submission of a proposed surface water drainage scheme that must comply with several requirements. Southern Water also had no objection to the proposed development but stated that it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during a construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

The indicative drainage strategy is therefore appropriate at this stage and demonstrates that viable drainage can be achieved as part of a reserved matters application.

ECOLOGY

The application site is within 10km of the Duncton to Bognor Escarpment Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). It is also within 12km of the Wider Conservation Area for Singleton and Cocking Tunnels SAC.

There is a biodiversity corridor, designated in the Barnham and Eastergate Neighbourhood Plan, along the northern and southern boundary of the application site. This does not prevent development on the site from coming forward, but the designation requires development to be highly sensitive to habitats and species which forage or commute on and around the site.

A Preliminary Ecological Appraisal (PEA) has been submitted with the application which states that following the proposed mitigation and enhancement measures, which include a sensitive lighting scheme, buffer zone around retained hedgerows and hedge planting, the proposed development would not have an adverse impact on designated sites of ecological interest. One priority habitat is identified on the site, but this would be retained, and impacts would be reviewed once a detailed scheme has been prepared.

The site is suitable to support roosting, foraging and commuting for bats. To avoid adverse impacts on them, the PEA recommends that any lighting scheme must be sensitive to bats. The site's boundary vegetation may be suitable for Great Crested Newts and reptiles, however, as this is to be retained, the PEA states that 'it is unlikely that GCN will pose a constraint to the development plans' and 'it is considered that reptiles do not pose a constraint to the development proposals'. There was no evidence of badgers on site, however measures have been recommended to avoid any harm arising from the development.

Dormice are common in the area, particularly within the biodiversity corridor designated in the Barnham and Eastergate Neighbourhood Plan. Boundary features provide good potential to support dormice, however this is set to be retained. The PEA identified two hazel coppices that would be removed. It recommends that their removal is sensitive, and there should be further planting to enhance the site for dormice. To avoid impacts to nesting birds, the PEA recommends mitigation measures and if followed, 'no significant residual impacts are predicted on nesting birds'. Records of hedgehogs have been returned 1.3km from the site but as boundary features are likely to be retained, 'no significant impact is to

be expected'.

Regarding impact on designated sites the PEA states that 'Given the scale of the proposals and distances of separation from the site and the above designations, it is not considered that any proposals would directly impact these sites through habitat loss, fragmentation or isolation. However, indirect impacts, such as recreational pressure will have to be reviewed once the exact extent of the development proposals are understood'. Mitigation measures such as the retention of boundary vegetation is recommended.

For the biodiversity corridor, measures are recommended to ensure the proposed development does not result in unacceptable impacts on them. This includes the retention of trees adjacent to Wandley's Lane, enhancement of the western aspect of the site with hazel, dogwood, hawthorn and spindle to create a more robust network, and additional planting.

The PEA also recommends ecological enhancement measures including bat boxes, nest boxes, enhancement of existing hedgerow, hedgerow, shrub and herb planting, log piles, and hedgehog homes. Biodiversity net gain would be confirmed as part of a reserved matters application, however the PEA states that 10% biodiversity net gain could be achieved with an appropriate scheme as required by Policy ES15 of the Barnham and Eastergate Neighbourhood Plan.

The Ecology Officer commented that the proposed development would be acceptable subject to compliance with mitigation and enhancement measures. These mitigation and enhancement measures would be secured by condition, alongside the submission of a Construction Environmental Management Plan for biodiversity, a Biodiversity Enhancement Strategy, a wildlife sensitive Lighting Design Scheme and a condition relating to a time limit before further surveys are required. A Biodiversity Net Gain Assessment will also be required by condition to ensure that the development achieves at least 10% biodiversity net gain.

Subject to mitigation and enhancement measures, the proposed 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.

LANDSCAPE

As identified in the Arboricultural Impact Assessment and Method Statement, two trees will be removed in order to install the access. The remainder of the boundary vegetation will be retained. The indicative layout shows tree and hedgerow planting within the site and between plots. Overall, the indicative planting provides appropriate screening between the site and the highway, and other neighbouring properties. It is also appropriate in reinforcing the character of the area, which is semi-rural with agricultural fields comprising boundary trees and hedgerow, in accordance with Policy LAN DM1.

A Landscape Visual Impact Assessment has not been submitted with the application however given the modest scale of the indicative layout and the retention of boundary features, it is considered that the proposal seeks to 'respect the particular characteristics and natural features of the relevant landscape character area' as required by Policy LAN DM1.

The application is within circa 800 metres of the South Downs National Park and within its setting. Given this separation distance and screening from the riding school to the north, and development between the A27 and Arundel Road, there will be no impact on views looking into the National Park. There will also be no adverse impact on the National Park's purpose of conserving and enhancing natural beauty, wildlife

and cultural heritage. The South Downs National Park Authority made a representation and made no comments on the application. The proposed development would therefore 'have special regard to the conservation of that setting, including views into and out of the Park' in accordance with Policy LAN DM1.

The Council's Landscape Officer has not made a representation, however as part of the reserved matters stage the applicant is required to submit full landscape details as part of the Biodiversity Enhancement Strategy which will be secured by condition.

TREES

An Arboricultural Impact Assessment and Method Statement has been prepared by the applicant based on the indicative scheme. It states that there are 12 category B trees and 23 category C trees on the site. A category C Hazel and a category C hawthorn would be removed to facilitate the development and it is stated that 'The loss of these trees is low and acceptable impact and is likely to have a minimal amenity impact on the surrounding area'. All category B trees and most category C trees which are of good health and value to the character of the area will be retained. The proposed development therefore accords with Policy ES10 of the Barnham and Eastergate Neighbourhood Plan which encourages development 'to retain wherever possible ancient trees, trees of good arboricultural and amenity value and hedgerows'.

In addition, to facilitate the access, the RPA of a category B Oak would be encroached however, the assessment states that 'The extent of this encroachment is low & acceptable'. The remainder of the RPAs would be unaffected as the works would be beyond the RPAs the retained trees.

The report also recommends measures to protect retained trees to avoid any adverse impacts from the development. This includes the construction of protective fencing to acceptable standards, the new driveway to be installed to specialist 'No Dig' construction specification and other ground protection measures. These measures would ensure that 'Proper provision must be made for the protection and management of trees or areas of woodland on-site when undertaking development' as required by Policy ENV DM4 of the Arun Local Plan.

The Council's tree officer has not made a representation, however on balance, the impact on trees, as a result of the illustrative layout, will be acceptable. As the proposal is outline with all matters reserved except for access, the layout could change so far as to create further impacts on retained trees. An updated Arboricultural Impact Assessment and Method Statement will be required to reflect the submitted layout as part of the reserved matters stage.

ENERGY

As the application is outline with all matters reserved except access, formal plans have not been provided showing renewable energy measures and an Energy Statement has not yet been provided.

The Design and Access Statement indicates that the layout has been designed so that the amenity areas face south or east to make use of solar gain and the fabric of the houses will be thermally efficient, with high quality windows, doors and screens. It is anticipated that the main heating will be electrical, with ground sourced heat pumps being used, alongside photo-voltaic panels. Other measures such as motion sensitive lighting will also be installed as well as energy efficient electrical fittings.

The above renewable energy measures should be incorporated into the scheme in the reserved matters stage, and an Energy Statement will be required by condition to demonstrate how the proposal will meet the aspirations of Policy ECC SP2 of the Arun Local Plan.

CONCLUSION

In this case, permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits', when assessed against the policies in this Framework taken as a whole.

The proposed development would deliver 4 dwellings to the District which would provide a contribution towards the supply of housing locally. This weights in favour of granting permission. In addition, the indicative design would respect the character of the area, an appropriate access and sufficient levels of parking could be achieved, alongside a suitable drainage scheme. Ecological impacts could also be acceptable subject to mitigation and further enhancement measures.

There are a number of small issues with the indicative scheme however as the application is outline with all matters reserved except access, this could be addressed in the reserved matters stage.

Overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, and therefore it is recommended that planning permission is granted subject to conditions.

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 application is within CIL Zone 3 and therefore the development is liable to CIL. However, the application is outline with all matters reserved except for access and therefore the quantum of new floorspace created would be determined as part of a reserved matters application. The amount of CIL liable will be calculated in the reserved matters stage.

RECOMMENDATION

APPROVE CONDITIONALLY

1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 2 years beginning with the date of this permission:-

- (a) Layout;
- (b) Scale;
- (c) Appearance;
- (d) Landscaping.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before expiration of 1 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

3 The development hereby approved shall be carried out in accordance with the following approved plans

- Location Plan - 2129/PL.01 Rev A
- Context Plan - 2129/PL.03
- Transport Statement
- Preliminary Ecological Appraisal
- Arboricultural Impact Assessment and Method Statement

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.

4 No development above slab shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings has 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/and character and appearance of the Listed Building/ by endeavouring to achieve a building of visual quality in accordance with policy D DM1 of the Arun Local Plan.

5 The layout details to be submitted pursuant to condition 1 shall include:
a) a plan showing the location and quantum of vehicle and cycle parking spaces that serves each of the proposed dwellings.
b) an Arboricultural Impact Assessment and Method Statement identifying if any trees will be removed to facilitate the submitted layout, the impact of the submitted layout on retained trees and the protection and mitigation measures required to appropriately mitigate this impact.

Reason: To ensure that each of the proposed dwellings is provided with adequate parking in accordance with the Arun District Council Parking Standards and Policy T SP1 of the Arun Local Plan and that retained trees are protected against the harmful impacts of development in accordance with Policy ENV DM4 of the Arun Local Plan.

6 Prior to commencement of the development hereby approved (or such other date or stage in

development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A 'Preliminary Risk Assessment' which has identified: all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
2. A 'Site Investigation Scheme', based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. Based on the 'Site Investigation Scheme' and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A 'Verification Plan' providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to occupation of any dwelling or part of the site (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification Plan, and for the reporting of this 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. This is required to be a pre-commencement condition because these details have to be agreed and in place before any work commences.

- 7 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 protect the amenity of local residents in accordance with Policy QE DM4 of the Adopted Arun Local Plan 2011 - 2031.

- 8 Prior to the occupation of the dwellings, a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to the Local Planning Authority for approval and thereafter implemented in accordance with the approved details and the charge points shall thereafter be permanently retained and maintained in good working condition.

Reason: New petrol, diesel and hybrid cars/vans will not be sold beyond 2035, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with policy QE DM3 (c) of the Arun Local Plan, the Arun Parking Standards SPD and the National Planning Policy Framework.

- 9 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 on Sunday or Bank/Public Holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE SP1 of the Adopted Arun Local Plan 2011 - 2031.

- 10 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (The Ecology Partnership, August 2021) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-sit 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).

- 11 Prior to commencement of any works, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones" based on any protected species survey results that are "in date".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on sit of an ecological clerk of works (ECoW) or similarly competent persons.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) ,Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve 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 any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species prepared by a suitable qualified ecologist shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures
- b) Detailed designs to achieve stated objectives;
- c) Locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant);
- f) Hard and soft landscaping details.
- g) Details and calculations to demonstrate that the proposed development would achieve at least 10% net gain in biodiversity

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF and s40 of the NERC Act 2006 (Priority habitats & species), Policy ENV DM5 of the Arun Local Plan, and Policy ES15 of the Barnham and Eastergate Neighbourhood Development Plan.

- 13 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.

- 14 Prior to any external lighting being installed on the site, a lighting scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall

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

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

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 15 If the development hereby approved does not commence within 12 months from the date of the surveys, the approved ecological mitigation measures for mobile species shall be reviewed and, where necessary, amended and updated in line with CIEEM Advice note on the lifespan of ecological reports and surveys (2019).

The review shall be informed by further ecological surveys commissioned to:

- i. establish if there have been any changes in the presence and/or abundance of habitats or species, and
- ii. identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development.

Reason: To allow the LPA 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 and species).

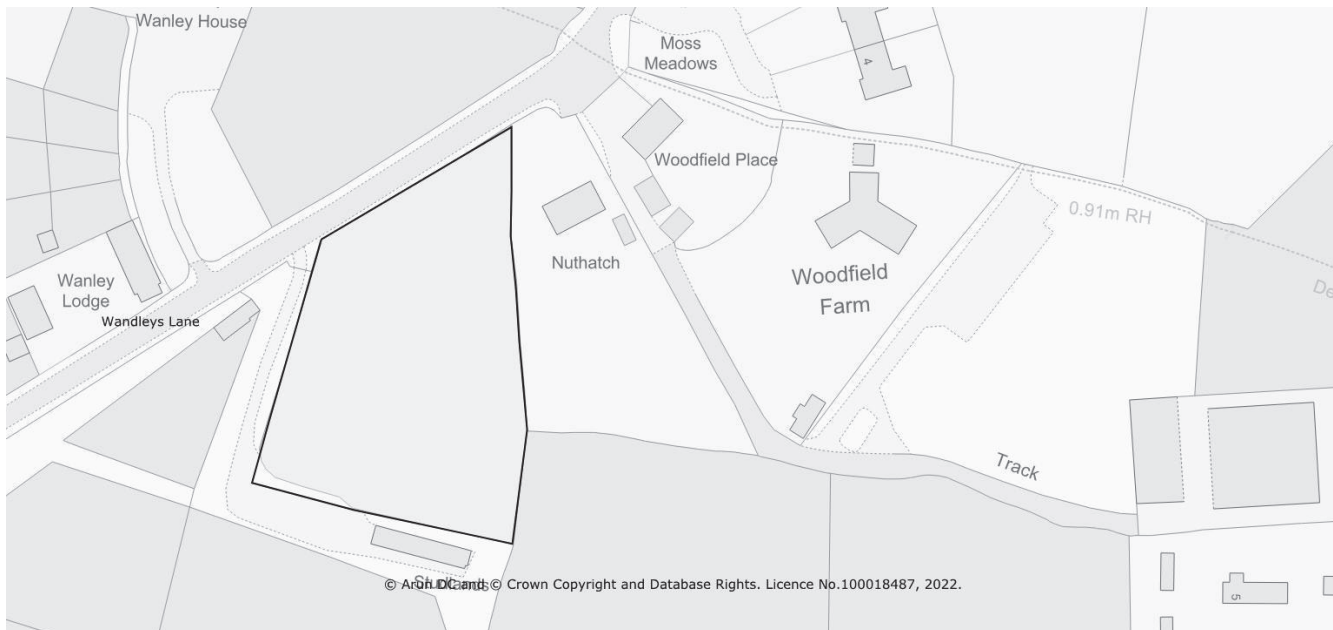
- 16 **INFORMATIVE:** To prevent impacts to the amenities of future occupiers of the proposed dwelling/s and occupiers of neighbouring dwellings, the development should be carried out in accordance with the 'Arun District Council Construction Code of Practice: For small developments in Arun', available from : <https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n12193.pdf&ver=12201>

- 17 **INFORMATIVE:** This permission does not grant approval to the details submitted as supplementary information in support of but not forming part of the outline application.

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](#).

BN/144/22/OUT - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



Based on the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Arun District Council 100018487. 2015