

PLANNING APPLICATION REPORT

REF NO:	BN/25/23/OUT
LOCATION:	Eastmere Stables Eastergate Lane Eastergate PO20 3SJ
PROPOSAL:	Outline permission with all matters reserved, other than access, for 4 No self-build dwellings (resubmission following BN/99/22/OUT). This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes the demolition of all buildings, and the construction of four self-build dwellings. The indicative layout plan shows the footprint of four dwellings in an informal arrangement along the access road with two small communal spaces in the middle. The application is in outline, with all matters reserved, other than means of access. Permission is sought in principle for the development with the detailed design considerations reserved.
SITE AREA	6879.66sqm.
RESIDENTIAL DEVELOPMENT DENSITY	5.8 dwellings per hectare.
TOPOGRAPHY	Predominantly flat, sloping slightly up from lane to the north.
TREES	There are established hedges and trees on site and around the access point which will be affected by the proposal.
BOUNDARY TREATMENT	The north-eastern boundary open to grassland, the rest of the site is screened by a mix of trees and hedging. This is particularly prevalent along the western boundary. The site is bordered by residential development to elements of its southern and eastern boundaries, however, access is taken from this southern boundary, where it meets the road.
SITE CHARACTERISTICS	The site is equestrian land, including stables, stores, and workshops; areas of hard standing and bare gallops and sand school; areas of introduced shrubs and amenity grassland; and a section of improved grassland paddock. The western section of site is semi-improved grassland with, shrubs and scattered trees.
CHARACTER OF LOCALITY	A rural location with sporadic housing on Eastergate Lane. Farming and equestrian uses are in the vicinity. There is a dwelling opposite, but this is some distance away (29m back from Eastergate Lane). Eastmere House sits to the east of the site and 'The Oak', previously a dwelling for permanent agricultural workers, to its immediate west. There is a

horticultural nursery to the east.

The wider area is rural with varying land uses including arable and recreational. The surrounding fields consist of a mixture of tree and hedge bound fields.

RELEVANT SITE HISTORY

BN/99/22/OUT	Outline permission with all matters reserved, other than access, for 9 No residential dwellings. This application is a Departure from the Development Plan.	Refused 12-09-22 Appeal: Allowed+Conditions 04-07-23
BN/7/21/PL	Change of use of existing equestrian yard to storage (Use Class B8). This site is in CIL Zone 3 (Zero Rated) as other development & is a Departure from the Development Plan.	ApproveConditionally 08-04-21
EG/102/16/PL	1No. Dwelling for permanent agricultural worker following temporary approval EG/62/15/PL	ApproveConditionally 18-04-17

BN/99/22/OUT was allowed on appeal on 4th July 2023. The conclusions in the Inspectors decision letter will be set out in the conclusions section.

The Oaks was granted permission (EG/102/16/PL) for agricultural workers on a site immediately adjoining the southern boundary. This restriction was lifted by BN/66/21/PL. This permission relates to a much smaller site area (0.16 ha) with a frontage to Eastergate Lane.

REPRESENTATIONS

Barnham and Eastergate Parish Council: A strong objection.

- Against the Barnham and Eastergate Neighbourhood Plan, policies ES1A, ES1B, ES14, ES16 and ES10.
- The development is outside of the Barnham and Eastergate built-up area boundary and is near to the green infrastructure corridor.
- There is a high level of bat activity in this area.
- The site was not offered for sale on the open market.
- There are concerns over further pressures on local services such as schools and GP services.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. All planning issues will be addressed in report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ECOLOGIST: The applicant provided an Updated Ecological Impact Assessment (Lizard, May 2023). The Ecology Consultant is satisfied there is sufficient information to determine this application. They are satisfied that the updated Biodiversity Net Gain Assessment has estimated net gains in both Habitat Units (HU) and Linear Units (LU), estimating an increase of +3688.27 HU (+44.47%) and +45.22 LU (+80.75%).

DRAINAGE ENGINEERS: The site is in the Lidsey Treatment Catchment Area and the site is in an outer groundwater protection zone therefore the EA and Portsmouth Water should be consulted about proposals to infiltrate surface water. Recommend a standard condition.

PORTSMOUTH WATER: No concerns regarding impacts to groundwater quality and does not recommend planning conditions to be included.

SOUTHERN WATER: Requires a formal application for a connection to public foul. Full comments are online.

WEST SUSSEX FIRE & RESCUE SERVICES: The nearest hydrant is 350m away. The supply of water for firefighting for a domestic premises should be within 175m. Suggested a condition for an additional fire hydrant.

WSCC HIGHWAYS: No objection. The proposal would not 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 NPPF (paragraph 111), and that there are no transport grounds to resist the proposal.

ENVIRONMENTAL HEALTH: No objection subject to conditions relating to potentially contaminated land, construction, and external lighting.

SOUTH DOWNS NATIONAL PARK AUTHORITY: Although outside of the National Park, the Council has a statutory duty to consider the purposes of the National Park when making its determination.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Outside Built-Up Area Boundary;
Source Protection Zones;
Prone to Groundwater Flooding;
Lindsey Treatment Catchment Area;
Within 12km of the Singleton & Cocking Tunnels Special Area of Conservation (SAC);
WSCC Mineral Consultation Area.

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
EMPDM1	EMP DM1 Employment Land: Development Management
ENVSP1	ENV SP1 Natural Environment
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
EQU DM1	EQU DM1 Equine Development
LANDM1	LAN DM1 Protection of landscape character
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk

Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES5	Quality of design
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES10	Trees and Hedgerows
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES14	Development on Agricultural Land
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES16	Dark night skies
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES17	Singleton and Cocking Tunnels SAC
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES1a	Flooding
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES1b	Reducing Flood Risk
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H8	Settlement boundary
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES15	Green Infrastructure and Ecosystem Services
Barnham & Eastergate Neighbourhood Plan 2019 POLICY GA4	Parking and new 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

SPD13 Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan (ALP) 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.

The relevant policies in the Barnham and Eastergate Neighbourhood Development Plan (BENDP2) 2019-2031 have been considered in the determination of this application.

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 would be a form of development that would be contrary to the countryside polices in the development plan.

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 namely the allowed appeal for outline planning permission for nine residential dwellings (BN/99/22/OUT) at the same site.

CONCLUSIONS**PRINCIPLE**

The Council published its Authority Monitoring Report (AMR) for 202/22 in January 2023 and this shows the Housing Land Supply (HLS) has decreased from 2.42 to 2.36 years. Based on this, the policies most important for the determination in the ALP have reduced weight as Arun cannot demonstrate an adequate supply of housing land (HLS). Due to the HLS being below 3 years and despite its age, the BNDP2 does not benefit from the support in para 14 of the NPPF. The NPPF presumption in favour of sustainable development is unaffected by the Neighbourhood Plan.

In the appeal decision on BN/99/22/OUT the Inspector concluded at paragraphs 6 and 7.

" 6 The appeal site is not designated within the development plan, however Policy C SP1 of the Arun Local Plan (LP) sets out specific types of development appropriate to the countryside. The proposal is for a residential use, and this is not one of the specified development types in LP Policy C SP1. Nor has it been shown that the proposal would comply with any other specific spatial or use policies within the development plan. On this matter the Council consider it a departure from the local plan and the appellant has not contested this point.

7 Consequently, the proposal would fail to comply with LP Policy C SP1, and therefore regarding relevant local policy the proposal is not a suitable land use for the appeal site's countryside location. However, the Council is unable to demonstrate a 5-year housing land supply (5YHLS), as required by the National Planning Policy Framework (the Framework), and this is a material consideration which I will return to below."

Arun Local Plan:

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. The proposal conflicts with ALP policy C SP1.

Barnham and Eastergate Neighbourhood Development Plan (BENDP2):

The BENDP2 sets a BUAB, and the site lies outside of this. Policy H8 refers to development in the countryside and has a similar wording to ALP C SP1. Policy H2 allows for windfall sites but only where these are in the BUAB. The proposal conflicts with these policies. Other policies in the BENDP2 will be referred to in following sections.

The site is outside the built-up area boundary and some distance from adjoining settlements. It is exceptionally unlikely that trips from this site will be made by modes other than the private car. Walking and public transport accessibility is poor. There would be very limited social and economic benefits of the proposals.

The conclusions of appeal BN/99/22/OUT stated that the residential development was in a sustainable location. The Inspector applied the presumption in favour of sustainable development and concluded that this was not outweighed by significant negative impacts.

A number of other permissions in the locality have been granted recently including WA/75/17/PL (allowed at appeal in June 2019), WA/26/18/OUT, BN/46/20/PL (allowed at appeal in March 2021) and BN/112/21/PL.

This application needs be determined on its own relative planning merits which includes the recently allowed appeal for 9 dwellings on the site.

The principle of development on this site conflicts with the development plan. This conflict is overridden by the identified material consideration (appeal APP/C3810/W/22/3312864). As the Council cannot demonstrate an appropriate HLS, the policies most important for determining the application are out-of-date and so the application must be determined by the NPPF presumption in favour of sustainable development under paragraph 11 (d). Footnote seven does apply for the proposed development. 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 181).

CHARACTER AND APPEARANCE

ALP policies D SP1 and D DM1 require development 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 characteristics & natural features of the relevant landscape character areas.

The Arun Design Guide (page 130 states development in rural locations should integrate seamlessly into its setting, use simple/unobtrusive design, respond to the scale of nearby development, maintain existing landscape features, use hedging for boundaries and restrict areas of hard surfacing on frontages).

Policy ES5 of the BENDP2 would require development to contribute to the distinctive character of an area. Development will not be permitted where it would reduce the biodiversity, landscape and amenity value and character of historic rural roads. Historic rural roads are defined as those outside towns which have not undergone significant widening or straightening in the intervening period. Eastergate Lane is one of them.

Part 4 of the Barnham and Eastergate Design Guide (BEDG), an appendix to the BENDP2, refers to housing design policies and requires the density and character of each part of the parish should be respected.

The National Design Guide in Part C1 maintains that well-designed places are:

- based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
- integrated into their surroundings so they relate well to them;
- influenced by and influence their context positively; and
- responsive to local history, culture, and heritage.

The character of the area is one of scattered development set amongst open grazing land and horticultural glasshouses, which are a feature of the area. Where there is residential development, it contains large, detached houses set in extensive grounds fronting the lane. Other uses include equine establishments, storage yards and small workshops. Notwithstanding these commercial operations, Eastergate Lane and the land around it retains a rural character and appearance.

Existing buildings on site are single storey and only exist sporadically on much less than half of the site. The proposals would introduce a significant scale of new residential development into a rural location whose character remains largely one of open grazing land or horticulture. The number of dwellings has reduced from the allowed appeal and whilst not for consideration at this time, indicative dwellings are one and half storey and significantly greater in scale than buildings on the site. They would not be enclosed on site boundaries by natural features and would not be adjoined by built development. Given the terrain of the site, slowly rising from lane, the dwellings would stand up against the open grassland resulting in impact on the character of the countryside.

The Inspector's report in paragraphs 11 and 12 (APP/C3810/W/22/3312864) states: 'I am satisfied that the proposed 9 dwellings are unlikely to intensify the usage of the front portion of the appeal site beyond that existing, in terms of traffic movement and general activity on the site. However, when considering the rear section of the appeal site, the proposed use would not be appropriate. The open nature of the paddocks contributes to the rural setting of Eastergate Road, where pockets of development are surrounded by fields, hedges, and patches of woodland. The paddocks create one such pocket and provides the buffering between development which is characteristic of this area. The proposal would encroach into this space, reducing its capacity to provide a buffer, and harm both the character and appearance of the surrounding area.' In paragraph 15 the Inspector concludes: 'When considering the appeal site as a whole, the proposal would cause harm to the character and appearance of the area. It would, therefore, fail to comply with LP Policies D SP1 and D DM1 and Policies ES5 and ES6 of the Barnham and Eastergate Neighbourhood Development Plan (NP), as far as they seek to maintain an

area's character and local distinctiveness.'

The general conclusion of the Inspector stated above is agreed with for this application. As there would be fewer dwellings there would be less harm to the character of the area.

MINERALS SAFEGUARDING

The site is in a Sharp Sand and Gravel Mineral Safeguarding Area as defined by the West Sussex Joint Minerals Local Plan. Policy M9(b) of that Plan states that proposals for non-mineral development within the Minerals Safeguarded Areas will not be permitted unless: (i) Mineral sterilisation will not occur; or (ii) it is appropriate and practicable to extract the mineral prior to the development taking place, or (iii) the overriding need for the development outweighs the safeguarding of the mineral and it has been demonstrated that prior extraction is not practicable or environmentally feasible.

It is material that on a similar scale nearby site (BN/147/21/OUT for eight dwellings), WSCC Minerals & Waste advised that due to the small scale of the proposal, no significant levels of mineral sterilisation would occur if the development was permitted and as such, they raised no objections. It is material that there is a need for new housing to counter the council's HLS deficit although the proposal's contribution will be very minor. On this basis, there is no conflict with this policy.

HIGHWAYS & TRANSPORTATION

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 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 in easy access of established non-car transport modes/routes.

Para 110 of the NPPF states: "In assessing specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Para 111 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 application is outline with all matters reserved other than access. A single two-way access point onto Eastergate Lane with a 5.5m access road into the site and 2.4m x 120m visibility is proposed. WSCC Highways conclude visibility to the west will only be achieved if vegetation is trimmed back. They state that swept path tracking is acceptable and that there are no transport grounds to resist the proposals. The trimming back of vegetation would have the same impact as the allowed appeal decision.

The proposals are considered to accord with development plan polices and the NPPF.

BIODIVERSITY/ECOLOGY

ALP policy ENV SP1 encourages and promotes the preservation, restoration and enhancement of biodiversity and the natural environment and policy ENV DM1 stresses that proposed development likely to have an adverse effect on land with the designated features of any Site of Biodiversity Importance will not normally be permitted. Policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site.

BENDP2 policy ES15 states development within, or adjacent to the Biodiversity Corridors identified on

Map B and Appendix A must assess the impact of development proposals on the natural environment. Development proposals should contribute to, increase, and enhance the natural environment by providing additional habitat resources for wildlife and demonstrate that any potential impacts upon priority species and habitats have been fully assessed and mitigated to deliver at least a 10% net gain in biodiversity using the Defra approved biodiversity metric.

Paragraph 174 of the NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment recognising the intrinsic character and beauty of the countryside. According to paragraph 181, the same protection as habitats sites should be given to the sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

The site is in the 12km buffer zone for the Singleton and Cocking Tunnels Special Area of Conservation (SAC). BENDP2 policy ES17 requires assessment of proposals on foraging habitat and commuting flight lines qualifying bat species in this area. It is in the Biodiversity Corridor (2) identified on Map B and Appendix A where new development must not give rise to any significant harm to the integrity or function of the Biodiversity Corridors.

The applicant provided the Updated Ecological Impact Assessment (Lizard, May 2023) which was reviewed by the Ecology Consultant, and they are satisfied that there is sufficient information available to determine this application. They are satisfied that the updated Biodiversity Net Gain Assessment has estimated net gains in both Habitat Units (HU) and Linear Units (LU), estimating an increase of HU (+44.47%) and LU (+80.75%). They recommend the Biodiversity Net Gain Plan is submitted which demonstrates how net gain will be achieved on site, this should be secured by a condition.

The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition. It is recommended that this could also include provision of integrated bat and bird boxes, reptile hibernacula and native species rich hedgerow planting. The Inspector in BN/99/22/OUT found no harm to ecology and imposed conditions.

The development complies with requirements of the ALP policies ENV SP1, ENV DM1 and ENV DM5, BENDP2 policies ES15 and ES17 and paragraphs 174 and 181 of the NPPF.

FLOOD RISK AND DRAINAGE

The site is not affected by any current or future flooding from rivers/sea and is in Flood Zone 1. ALP 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. BENDP2 policy ES1a and b are consistent with policies in the Local Plan.

The site is in a water source protection zone with an extraction borehole being within 400m. Policy W DM1 seeks to protect existing water supplies from foul & surface water discharges. Portsmouth Water are content that water pollution can be controlled by way of conditions. This includes the prevention of any piling associated with foundations. On this basis, there is no conflict with the relevant policies.

The site is in the Lidsey Wastewater Treatment Works Catchment Area. Policy W DM1 (ALP) states although minor developments are unlikely to raise significant flood risk, due to the cumulative impact all development within this area must be accompanied by a Drainage Impact Assessment (DIA).

The surface water drainage strategy is disposal via infiltration. A Drainage Impact Assessment as required by the policy W DM1 was not submitted, however, it is material that Arun District Council's Drainage Engineers have not objected subject to pre-commencement condition and informatives which

are imposed. No concerns regarding the impact of surface water discharge in the Lidsey area have been raised.

The development would comply with those aspects of policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan and policy ES1 of the BENDP2 and paragraph 167 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. The Arun Design Guide sets out guidance on garden depths and interface distances between houses.

Notwithstanding the outline nature of the application, it is appropriate to ensure the development can be finalised without giving rise to harm to existing residential properties. Adjoining uses are unlikely to cause significant levels of noise and disturbance.

TREES

ALP policy ENV DM4 (Protection of Trees) requires development to demonstrate that trees protected by a Tree Preservation Order(s) (TPO) identified as Ancient Woodland, in a Conservation Area or contributing to local amenity, will not be damaged or destroyed now and as they reach maturity unless the three criteria is adhered to. BENDP2 policy ES10 states development that damages or results in the loss of ancient trees or trees or hedgerows of arboricultural & amenity value should demonstrate that the benefits clearly outweigh the harm or loss.

Paragraph 131 NPPF highlights the important contribution which trees make to the character and quality of urban environments and can also help mitigate and adapt to climate change.

The established hedges in and around the stable complex and the trees on the site would be removed. The applicant in their Planning, Design and Access Statement, paragraph 7.5, states that 'all development on site would sit outside of the root protection areas of the existing trees which are sited in various locations within the vicinity of the site.' As a result of proposal, all trees and hedges would be removed. Even the mature tree on the site of The Oaks, not subject of this application, is shown on submitted 'Tree Protection Plan' to be removed due to new access to The Oaks.

The applicant provided a 'Tree Survey and Impact Assessment'. The development proposes the removal of 3 mature trees and hedges. There would be adverse impact on the character, appearance of the area and the natural habitat given the location of the site inside the 12km buffer zone as shown in the Sussex Bat SAC Planning and Landscape scale Enhancement Protocol.

The development would cause a loss of three mature trees, however, the applicant provides documents required by the Local Plan policy ENV DM4 and the proposal broadly comply with policy ENV DM4 of the Arun Local Plan. The Inspector on BN/99/22/OUT did not identify harm regarding tree loss.

CLIMATE CHANGE

ALP policy ECC SP2 requires all new residential and commercial development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems.

A condition would be required to secure the specification of these proposals and to ensure compliance post planning decision. A condition would be required to ensure the provision of electric vehicle charge

points. On this basis, there would be no conflict with the relevant policies.

DARK SKIES

Policy ES16 of the Neighbourhood Plan states that new development that detracts from the unlit environment will not be supported. It is considered that an appropriate lighting scheme would be required to accord with this policy requirements.

B8 USES & EQUESTRIAN

Approximately half of the site is in B8 use (approved by BN/7/21/PL). This was granted permission as it accorded with EMP DM1. Under this policy, the use would be protected where there remains a reasonable prospect of continued employment use. The application makes no mention of this use and the policy requirements and have not sought to demonstrate that such uses could not continue this part of the site.

The equine use of part of the site is appropriate in a countryside location. The application submission fails to make any reference to the loss of these uses and whether they would need to provide elsewhere or if the scale of equine uses retained would be sufficient to accord with EQU DM1. The Inspector on BN/99/22/OUT did not identify harm on this issue.

PLANNING BALANCE/CONCLUSION

The Council cannot demonstrate a 5 year HLS with the current housing land supply 2.36 years. As such paragraph 11 of the Framework applies. The housing policies which are most important for determining the application, including ALP policy C SP1, are out of date. As the site is not within, nor would affect any protected areas or assets, as set out in footnote 7 of the Framework, Paragraph 11 indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal provides four dwellings in an area of countryside where other residential dwellings are present, although it is acknowledged not highly accessible. The Framework seeks to significantly boost the supply of housing and has a positive approach to alternative uses of currently developed land. Whilst a small-scale development, the number of dwellings has been reduced from nine to four, this would provide a small contribution towards housing supply. The proposal would provide very limited social and economic benefits. The cumulative benefits of the scheme carry marginal weight.

The development would not accord with the development plan when taken as a whole because it would lie outside any built-up area and would impact on the character and appearance of the countryside. However, this conflict is overridden by the identified material consideration (appeal: APP/C3810/W/22/3312864). The Inspector (for the same site for 9 dwellings) concluded their report stating: 'Although I have found the proposal would conflict with the development plan, for the reasons given above the presumption in favour of sustainable development is an important material consideration that, in this case, outweighs the limited conflict with the development plan.'

The same conclusion is reached in this case. NPPF paragraph 11(d) ii applies and the application is recommended for approval subject to 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

Outline application with all matters reserved, other than access.

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 2 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 insofar as they relate to access only:

Location Plan;

Dwg No 001, Proposed Site Plan Layout.

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 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 dwellings are 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.

5 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 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 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 all dwellings with a garage or driveway to have EV charging points in 100% of parking spaces with electric ducting 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: New petrol and diesel cars/vans will not be sold beyond 2030, 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 NPPF.

7 No part of the development shall be first occupied until the access with visibility splays of 2.4m by 120m have been provided at the site access onto Eastergate Lane, in accordance with the approved drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6m above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in accordance with policies T DM1 of the Arun Local Plan.

- 8 No development above damp-proof course (DPC) level shall take place unless and until details of the location of the required fire hydrants have 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 development, the developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations 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 hydrants 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.

- 9 Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday, between 0800 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

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

- 10 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecological Impact Assessment (Lizard, May 2023) 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-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 enhance the environment for local wildlife and result in net biodiversity gain, in accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan. 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 No development shall commence unless and until a Biodiversity Gain Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the Secretary of State's biodiversity metric as applied in the area in which the site is situated at the relevant time.

The content of the Biodiversity Gain Plan should include the following:

- a) Proposals for the on-site biodiversity net gain;

b) A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Gain Plan.

Reason: To allow the development to demonstrate measurable biodiversity net gains and allow Local Planning Authority to discharge its duties under the NPPF and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with policy ENV DM5 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the biodiversity goes to the heart of the planning permission.

12 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) in accordance with policy ENV SP1 and ENV DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the conservation of protected species goes to the heart of the planning permission.

13 Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species prepared by a suitably 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 or product descriptions 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; and
- e) details of initial aftercare and long-term maintenance (where relevant).

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

Reason: To enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with policy ENV SP1 and ENV DM1 of the Arun Local Plan.

- 14 Any contamination found during construction that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment & prevention of harm to human health and to ensure that risks from land contamination to drinking water supplies is controlled and mitigated in accordance with Arun Local Plan policies QE SP1, QE DM4, W SP1 and W DM1.

- 15 Prior to occupation a lighting design 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 plans, 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) in accordance with policy ENV SP1 and ENV DM1 of the Arun Local Plan.

- 16 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, (plus 40%) 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.

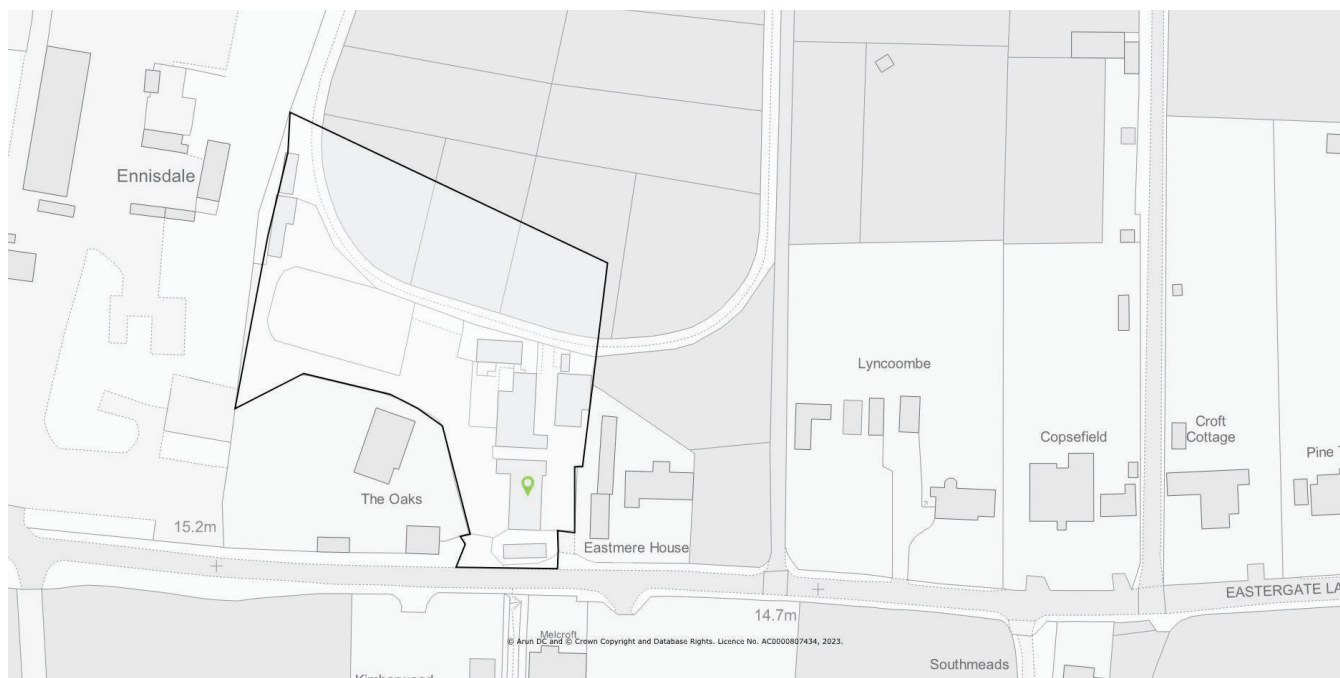
Supplementary guidance notes regarding surface water drainage are located at <https://www.arun.gov.uk/drainage-planning-consultations> on Arun District Council's website. A surface water drainage checklist is available on Arun District Council's website, this should be submitted with a Discharge of Conditions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

- 17 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 representations that may have been received and determining to grant planning permission in accordance with the presumption in favour of sustainable development set out in 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/weeky-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weeky-lists)

BN/25/23/OUT - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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