

PLANNING APPLICATION REPORT

REF NO: WA/35/23/OUT

LOCATION: Land East of Wandleys Lane  
Fontwell

PROPOSAL: Outline Planning Application for up to 95 no. residential dwellings (including 30% affordable), with all matters reserved apart from access. This application is a Departure from the Development Plan.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Outline permission is sought for the principle of residential development and access only at this stage with the following matters reserved for future consideration:  <ul style="list-style-type: none"> <li>- Appearance</li> <li>- Landscaping</li> <li>- Layout</li> <li>- Scale</li> </ul> <p>Vehicle and pedestrian access would be provided onto Wandleys Lane. The scheme proposes an upgrade to the northern section of Wandleys Lane to Walberton Lane, which would include road widening and footpath to south side and further north to the northern side. This would be agreed via a S106 agreement/S278 agreement, which would include other contributions that are examined in Conclusions section of this report.</p>
SITE AREA	The site extends to 7.15 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	14 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	Mature trees along Wandleys Lane may be impacted by road widening. Some of application site boundaries are made up of mature trees. Ancient Woodland "Wandleys Copse" lies to the south.
BOUNDARY TREATMENT	Trees and vegetation of various height to all boundaries.
SITE CHARACTERISTICS	Open farmland with access to Wandleys Lane where the site is connected to some hard surfacing for parking and ancillary farm buildings.
CHARACTER OF LOCALITY	Rural country lane and fields with sporadic farms and low density residential properties to west, north and east. Ancient Woodland to the south. Other than limited pedestrian footpaths at either end of Wandleys Lane there is no continuous dedicated footpath. There is an absence of light

columns along the whole of the lane and this is continued along all of West Walberton Lane, which adjoins Wandleys Lane to the east.

<b>REPRESENTATIONS</b>
------------------------

Walberton Parish Council - Objection for the following reasons:

Detrimental impact on the character of the countryside, unsustainable development, highways safety and traffic generation, increase risk of flooding,

96 letters of public representation objecting on the grounds of:

- Concerns with accuracy of transport assessment and data used.
- Increased traffic and congestions.
- Turning from West Walberton Lane to Wandleys Lane has poor visibility.
- Concerns for pedestrian safety
- Pedestrian access and infrastructure is poor and there is no pavement on Wandleys Lane
- Conflict with other road users: cyclists, walkers, horse riders etc.
- Increased noise and dust from construction.
- The location of the development is unsustainable and far from local services.
- Impact on the rural character of the area.
- Local services such as GPs, dentists and schools are overcapacity.
- Water and sewage networks are overcapacity.
- Increased light and noise pollution will impact people and wildlife (esp. bats)
- Flood risk and surface water concerns.
- Site is higher than surrounding land. Dwellings will overlook existing dwellings even if they are only two storey
- Pollution of the chalk stream in Wandleys Copse, this risk is increased by the placement of the SuDS.
- Housing is too dense.
- Impact an nearby ancient woodland and the habitats/wildlife within it.
- Impact on soils/Loss of Grade 3 agricultural land.
- Outside the Built Up Area Boundary.
- Greenfield site.
- Impacts on wildlife and protected species.
- The Forestry Commission has not been consulted.
- Sussex Wildlife Trust objection due to the presence of barbastelle bats and proximity to the SAC
- Wandleys Lane is designated as an Ancient Lane by the Walberton Neighbourhood Plan
- The design of the houses is out of character.
- Potential disturbance of the bat roosts provided by Dandara.
- Development would begin to fill in the gaps between Walberton and Barnham, causing the villages to merge.
- Removal of mature trees.
- TPO trees are present on site.
- Site is a habitat for great-crested newts.
- Proposed open space with LAP/LEAP is out of character.
- Presence of archaeological deposits.
- Houses will be unaffordable.

57 letters of public representation supporting the proposal on the grounds of:-

- Development will provide much needed housing

- There is provision of affordable housing
- Open spaces, play spaces, footpaths and allotments are provided
- It will help to increase home ownership
- The development would provide jobs in the area.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted. Any representations relating to material planning considerations are addressed in the Conclusions section of this report.

**CONSULTATIONS**

**CONSULTATION RESPONSES RECEIVED:**

National Highways - Holding objection until 30 May 2024. Concern with impact on SRN (strategic road network) particularly the A27 near Fontwell. Issues to be addressed include policy context, collision analysis, traffic surveys, trip rates and trip generation, committed development, junction modelling assessments and assessment scenarios.

WSCC Highways - No objections subject to conditions and S106 contributions likely, but further comments to be provided once the issues raised by National Highways have been resolved.

Leisure and Greenspace - No objections subject to further details to be considered at reserved matters stage.

Trees - Holding objection. The principle of developing the site can be achieved without undue detriment to the higher value trees but sympathetic reconfiguration of the access is needed.

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

Arun Drainage Engineers - No objection subject to conditions.

Environmental Health - No objection subject to conditions (Air Quality, Lighting, Working Hours, CMP, Contaminated Land)

Lead Local Flood Authority (LLFA) - No objection subject to conditions.

Southern Water - No objections subject to condition.

Archaeology - No objections subject to condition (WSI).

South Downs National Park Authority - Neither objects nor support the proposal. External lighting is encouraged to take guidance from the Dark Night Skies Technical Advice Note.

West Sussex Fire and Rescue Response - Advice regarding imposition of a condition for provision of a fire hydrant.

Natural England - No objection.

Sussex Police - Comments that consideration should be given to Crime Prevention Through Environmental Design (CPTED) and Secure By Design (SBD) standards.

WSCC as the Local Education Authority - Objected to the application as there are not sufficient spaces within secondary schools within the area to accommodate new pupils. As an interim solution, WSCC require transport contributions to cover costs to transport pupils from Arun District to alternative secondary schools within West Sussex which cannot be covered by CIL payments. A s106 contribution is sought from WSCC Education for school transport to mitigate the impacts of the proposed development upon Education.

NHS Sussex - No objection subject to S106 contribution of £144,665.00

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

Comments noted and are considered in the conclusions section of the report.

#### **POLICY CONTEXT**

Designation applicable to site:

Outside of built up area boundary (BUAB)

Grade 3b agricultural land

Within the Lidsey Water Water Treatment Works Catchment Area

#### **DEVELOPMENT PLAN POLICIES**

Arun Local Plan 2011 - 2031:

AHSP2AH SP2 Affordable Housing

INFSP1INF SP1 Infrastructure provision and implementation

CSP1C SP1 Countryside

DDM1D DM1 Aspects of form and design quality

DDM2D DM2 Internal space standards

DSP1D SP1 Design

ECCSP2ECC SP2 Energy and climate change mitigation

ENVDM4ENV DM4 Protection of trees

ENVDM5ENV DM5 Development and biodiversity

QESP1QE SP1 Quality of the Environment

SDSP3SD SP3 Gaps Between Settlements

SODM1SO DM1 Soils

TSP1T SP1 Transport and Development

WDM1W DM1 Water supply and quality

#### **PLANNING POLICY GUIDANCE:**

NPPF National Planning Policy Framework (Dec 2023)

NPPG National Planning Practice Guidance

#### **SUPPLEMENTARY POLICY GUIDANCE:**

SPD1 Open Space & Recreation Standards

Arun Design Guide

#### **DEVELOPMENT PLAN POLICIES**

#### **POLICY COMMENTARY**

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

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

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

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

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

The proposal is not considered to comply with the relevant development plan policies in that it is unrestricted residential development located outside of the Development Plan defined built up area boundary of Walberton in an area of countryside, which will result in unacceptable harm to the existing character and appearance of the area. In the absence of a completed section 106 agreement the development also does not provide affordable housing in accordance with ALP Policies.

#### **OTHER MATERIAL CONSIDERATIONS**

There are material considerations that weigh in favour of the proposal, which are discussed in the Planning Balance section towards the end of this report. However, these are not considered to be sufficient to outweigh the conflict with the development plan, namely the harm to the rural character of the area that a residential development of up to 95 houses would give rise to.

#### **CONCLUSIONS**

PRINCIPLE:

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

However, section 38 (5) of the Planning and Compulsory Purchase Act 2004 states: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Any conflict between the current WNDP and the ALP, should therefore be resolved in favour of the latter. The most relevant development policies in the Local Plan (C SP1) have reduced weight as Arun cannot demonstrate an adequate supply of housing land (currently only 4.17 years).

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

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

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

In January 2024, the Council republished its Authority Monitoring Report (AMR). This states the HLS is now at 4.17 years. The HDT results for the district have also been below 70% since 2018. Given this position the policies most relevant to the determination of the application have reduced weight.

Paragraphs 10 and 11 confirm that at the heart of the NPPF is the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay. Alternatively, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Footnote 8 confirms that, for applications involving the provision of housing, this includes situations where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 77), or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

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

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

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

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

As such, while paragraph 11d does apply, and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14 it is considered that paragraph 14 also applies and that the adverse impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. This will be considered in the planning balance section later in this report.

## **SUSTAINABLE DEVELOPMENT**

The site is approximately 1.7km from the centre of Walberton Village to the southeast with Barnham post office and local shops similarly approximately 1.7km to the southwest. As the site is not a town centre

location it is generally accepted that distances of 400m-1200m for day to day journeys and in respect of school/work commuting, 500m-2000m are considered sustainable.

All of the following distances are measured from the position of the proposed access onto Wandleys Lane and then using existing local roads.

The nearest schools would be:

- Walberton & Binsted Primary School -1.9km
- Ormiston Six Villages Academy, Westergate - 2.1km
- St Phillip Howard, Catholic School (6th Form), Barnham - 3.7km

The 228 Bus to Ormiston Six Villages Academy and 85A (88 also operates) which operates to Walberton and Barnham from Barnfield bus stop which is approximately a 440m walk from the site.

While the site is not considered to be well served by public transport and the distances are not attractive as a walking option, given the proposed upgrade of the north part of Wandleys Lane to include a footpath as part of a potential S106 agreement and the potential pedestrian links to and through the approved Dandara site to the north, it is concluded that the overall sustainability of the site is adequate. It should also be noted that the Dandara site includes provision of public open space, a multi-use games area, retail, allotments, community space and light industrial uses.

Paragraph 8 of the NPPF sets out three objectives in relation to sustainable development comprising social, environmental, and economic. Taking each in turn, the proposal would provide some social gains resulting from the provision of affordable housing; the proposed mix of house types; increase in accessible open space and the increased use of local services and facilities. However, there is no S106 agreement in place to ensure the affordable housing and play space is brought forward.

In terms of environmental aspect of the proposal such as impacts on trees and impacts upon the strategic highway network these are considered in detail in the report below. It is considered that there are adverse environmental impacts such as the urbanisation of Wandleys Lane from the proposed road widening. It is also noted that a further urbanising effect will be the illumination of the lane.

Taking the above into consideration, environmental gains would be provided in this scheme through the proposed biodiversity net gain as well as enhanced landscaping with additional planting. There would be limited harm to the environment through the loss of the open and undeveloped nature of the site, due to the degree of containment and retention of the most important landscape features which would screen it from wider view. However, this is discussed in more detail in the report below.

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

### AGRICULTURAL LAND

ALP policy SO DM1 states that unless designated by this Plan or a Neighbourhood Development Plan, the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect land in the long term. Grades 1, 2 and 3a are considered to be Best and Most Versatile Agricultural land (BMVAL).

The site is Grade 3b Agricultural Land, as such the development would not lead to a loss of grade 1, 2 or

3a agricultural land (BMVAL) and is compliant with ALP policy SO DM1.

## CHARACTER AND VISUAL AMENITY

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

Policy VE13 of the WNDP states that development proposals should respect and, wherever possible, enhance distinctive views and vistas by ensuring that the visual impact on these views is carefully and sympathetically controlled.

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

The Arun Design Guide suggests a density of 15-25 for detached/semi-detached houses in village locations and states density should decrease with distance from the centre of a settlement, to ensure development relates sensitively to its setting and addresses edges of the site in a positive way. The site density of approximately 14 dwellings per ha is considered appropriate to the character of the site and nearby settlement. The layout is indicative at this stage however it would appear to meet all other policy requirements. This matter would be subject to further consideration at the detailed design stage.

The immediate locality is considered to be rural in character. The development would lead to an urbanising impact on Wandleys Lane, through the proposed upgrade to the lane. The lane would change from a rural lane to an engineered urban road. It must however be considered that the character of the lane would change nonetheless as a result of the Dandara development to the north.

Given the exiting rural nature of the site there would undoubtedly be significant change in this character and an urbanising effect through the introduction of 95 dwellings, roads and other infrastructure and domestic paraphernalia. It is acknowledged, as set out in the Landscape and Visual Impacts Assessment (LVIA) submitted, that the site is not constrained by any landscape designations, nor would it have harmful impacts upon view into or out of the South Downs National Park. The site is relatively well contained by established mature tree and shrub cover along its boundaries with the ancient woodland forming a significant barrier to the south.

The illustrative masterplan indicates a landscape led development, with scope for significant additional planting which would further screen the development from view within the wider countryside. The LVIA states that views of the site are mainly limited to nearby properties close to the boundary of the site and at proposed access points.

Therefore, while there would be harm to the open countryside through the loss of the undeveloped



nature of the site and introduction of urban built form, the well screened nature of the site reduced this harm to by limiting the impact to the immediate area surrounding the site. The addition of a new engineered access and improvements to Wandleys Lane would further exacerbate the urbanising of Wandleys Lane cumulatively with the Dandara site to the north. This harm must be weighed in the planning balance.

## LIGHT POLLUTION

WNDP policy VE8 'Unlit village' status states: "Development proposals which detract from the unlit environments of the Parish will not be supported. New lighting will be required to conform to the highest standard of light pollution restrictions in force at the time. Security and other outside lighting on private and public premises will be restricted or regulated to be neighbourly in its use."

The development of 95 dwellings would introduce lighting to a lane that currently derives its character from its unlit nature. The previous application was refused, for this reason inter alia. This application is accompanied by an External Lighting Design Statement which demonstrates how suitable levels of lighting would be provided for amenity, safety and navigation whilst avoiding significantly harmful impacts upon the rural surroundings of the site.

While it is not disputed that the development would introduce new sources of external lighting, the External Lighting Design Statement appropriately sets out how this would be mitigated to a negligible or low level through appropriate design lighting scheme as well as additional strategic planting throughout the boundaries of the site to further limit light spill to the surrounding area. As such it is considered that a proposal could be designed to comply with WNDP policy VE8 under a subsequent reserved matters submission.

## TRAFFIC, ROAD SAFETY & PARKING

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

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

Para 114 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 111 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

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

The proposed access is from Wandleys Lane. This includes a new crossing to connect the shared footway and cycleway opposite. The location of this access requires a small number of Category B trees needing to be removed. From a highways perspective the access and improvements to Wandleys Lane are deemed acceptable.

Due to the outline nature of the application the parking provision is not detailed, however owing to the quantum of development and size of the development site it is likely that parking provision in accordance with Arun District Council's Parking Standards Supplementary Planning Document (SPD) could be achieved. Similarly, the application documents indicate a policy compliant level of cycle storage and electric vehicle charging points would be provided. These matters would be considered fully at the reserved matters stage.

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

National Highways (NH) have maintained a holding objection to the application with regards to the impact upon the strategic road network, particularly the A27 near Fontwell. NH have had protracted discussions with the applicant and their transport consultant to try to resolve the issues. NH has on several occasions requested additional information which the applicant has supplied.

Nevertheless, at the time of writing these discussions remain ongoing and the holding objection from National Highways remains in place. Therefore, at present the LPA does not have sufficient information to be satisfied that the proposed development would not have unacceptable impacts upon the strategic road network. This would need to be weighed into the overall planning balance,

### BIODIVERSITY

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

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

The applicant has submitted the following information including:

- Site Location Plan (ECE Architecture, November 2022);
- eDNA Survey Note (The Ecology Partnership, 23rd November 2022);
- Indicative Site Layout (ECE Architecture, April 2023);
- Indicative Landscape Masterplan (Allen Pyke, April 2023);
- Technical Note to Inform Habitat Regulations Assessment (The Ecology Partnership, April 2023);
- Ecological Impact assessment (The Ecology Partnership, April 2023);
- Updated Preliminary Ecological Appraisal (The Ecology Partnership, April 2023);
- Reptile Survey 2022 (The Ecology Partnership, April 2023);
- Updated Dormouse Survey 2022 (The Ecology Partnership, April 2023);
- Bat Activity Surveys 2022 (The Ecology Partnership, April 2023);
- External Lighting Design Statement (Lumineer, April 2023);
- Biodiversity Net Gain Assessment (The Ecology Partnership, April 2023);

- Biodiversity Metric 4.0 Spreadsheet (No date given);
- Natural England Consultation Response (ref: 434468, 1st June 2023); and
- eDNA Testing Great Crested Newts (The Ecology Partnership, July 2023).

Dormice were found to be present on the site. A European Protected Species (EPS) licence would be required, and as set out within the EclA, the licence application will include the need for mitigation planting, which will additionally benefit bats utilising the site. This matter would be secured by condition.

Surveys revealed a good population of Slow worm on the site, and low population of grass snake. Reptiles would be retained on site with enhanced hibernacula provided. Details could be secured through condition if outline permission were granted.

No badgers were identified on, or nearby, the site.

The proximity of the ancient woodland (Wandleys Copse) to the south of the site is a priority habitat necessitates a minimum 15m buffer, which also forms part of the dormouse mitigation strategy. The Ecologist is satisfied with this buffer in place there would be no adverse effects upon this priority habitat.

The submitted Biodiversity Net Gain Assessment (The Ecology Partnership, April 2023) has calculated a net gain in both habitat (+10.71%) and hedgerow (+26.20) units. This on site net gain could be secured through appropriately worded condition.

Several bespoke biodiversity enhancements are suggested including provision of integrated bat and bird boxes, Hedgehog friendly fencing, Hedgehog houses, invertebrate hotels and species rich, native hedgerow planting. All of these matters could be secured by way of condition.

The Technical Note to inform Habitat Regulations Assessment (The Ecology Partnership, April 2023) identifies that the site is 11km from the Singleton and Cocking Tunnels Special Area of Conservation (SAC). The Ecologist is satisfied that through the protection of the majority of the boundary features, the scale of the development is such that no severance or significant impacts on Barbastelle bats are predicted. The Ecologist recommends that, with mitigation secured, the LPA can record that the development can avoid adverse effects on integrity.

Due to the presence of the adjacent ancient woodland, recent nearby records for Barbastelle and Bechsteins bats and a nearby Barbastelle maternity roost (500 metres from site) any external artificial lighting could negatively impact bats utilising the site. An increase in artificial light would negatively impact foraging, commuting and roosting bats. A detailed lighting strategy could be secured by condition of any consent.

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

## TREES

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

ALP policy D DM1 states development is expected to incorporate existing and new tree planting as an integral part of proposals. Policy ENV DM4 of the Arun Local Plan requires development to protect and manage existing trees wherever possible. It also requires development to take a comprehensive view of tree issues at the early stages of the design process.

To facilitate access to the site the applicant proposed to remove two Ash trees (T35 & T36), a Field Maple group (G16), and sections of Hazel (G15). ADC Tree Officer has objected to the application due to the loss of identified trees to facilitate access onto Wandleys Lane. The tree officer considered that the removal of the group of Ash Trees to facilitate access and pedestrian enhancements to the highway is unsympathetic of their contribution to local character. The tree officer notes that they consider that the removal of G14 (predominantly non-native laurel) would be an acceptable alternative. If primary road and footway access switched positions, then it seems possible to retain more higher value trees and character.

It is acknowledged that the proposed access is in the same location as considered under the previous refusal (WA/73/17/OUT) and although this application was refused, no specific issues were identified with the location of the access or the loss of these trees at that time.

An arboriculture addendum (Technical Note TN01) was submitted in response to the Tree Officer comments which considers two alternative locations for the access. Moving the access further to the south would necessitate the removal of T33 (English Oak). Moving the access to the northeast would ensure the retention of T35 and T36 but would necessitate the removal of more of G15 (Hazel) to facilitate the necessary visibility splays. The applicant's arboricultural consultant considers that the current location of the access, whilst resulting in the loss of 2 category B Ash trees is the best option in arboricultural terms, protecting T33 (English Oak) and retaining the maximum amount of tree cover along the frontage of the site. The Technical Note also highlights other non-arboricultural considerations which have fed into the decision to locate the access as proposed. Locating the access further to the northeast would result in potential conflict between vehicular traffic and the pedestrian and cycle access at the Dandara site. Similarly locating the access further to the south could result in more impact to the residential property 'Lashburn'.

Given the status of the application as outline considering only access, with all other matters reserved, the Tree Officer also made some specific comments for areas to improve including: design consideration given to location attenuation basin east of plots 55-56 specific as it abuts RPA of T18 & T19 (Category A TPO Oak trees) which would not be acceptable; an extension of the 15m buffer Ancient Woodland Buffer is justified and required to secure positive outcomes for the woodland habitat; and the proposed planting with native trees and shrubs within areas for ecological enhancement is supported but must be submitted for consideration and approval within a detailed soft landscape strategy.

It is noted the Illustrative Landscape Masterplan is positive from an arboricultural perspective. As proposals around layout evolves through reserved matters, it would be expected the design would uphold the higher-level development principles set out in the Open Space SPD and Arun Design Guide E.02 Landscape Structures & Trees.

Presently, as set out in the Tree Officer's objection the proposal fails to protect trees which contribute to local amenity and this loss of trees would not be outweighed by the benefits of the proposal contrary to ALP policies D DM1, ENV DM4 and WNDP policy VE3.

### HERITAGE

Policy VE4 states that proposals that adversely affect the setting of the two Conservation Areas will not

be supported. New development must protect the open/rural character of the Conservation Area's setting and sustain or enhance the visual connections between the village's core and its rural hinterland, including longer views to the South Downs, which contribute to the character of the Conservation Area.

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

Paragraph 203 of the NPPF requires decision taking to take account of the desirability of preserving the significance of a heritage asset and the positive contribution that the conservation of the asset can make to sustainable communities. Paras 205-206 set out how the significance of an asset will be assessed and para 207-208 confirm how harm to assets will be quantified.

A Heritage Statement has been submitted to fulfil the requirements of paragraph 200 of the NPPF. The site does not contain any designated or non-designated heritage assets. The site is within 500m of the grade II Listed 'Goodacres' and the non-designated heritage asset 'The Smithy'. The heritage statement considers both the assets significance and their setting and concludes that the proposed development would have no impact on either their significance or setting.

As such the proposal results in no adverse impacts upon both designated and non-designated heritage assets in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paras 201 and 206 of the NPPF, ALP policies HER SP1, HER DM1 and WNDP policy VE4.

## ARCHAEOLOGY

ALP Policy HER DM6 requires development within sites of archaeological interest to be supported by an archaeological assessment to demonstrate that there would be no harm to the interest of the site.

The application submission includes an archaeological report which confirms that archaeology constraints would not be grounds for refusal of the application. While the site does have potential to contain remains of interest this could adequately be investigated through geophysical survey and archaeological and geoarchaeological evaluation appropriately. ADC's archaeology consultee has reviewed the assessment and raised no objection to the development subject to the inclusion of a condition to secure a programme of archaeological work.

## RESIDENTIAL AMENITY:

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

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

Given the outline nature of the proposal and the detail of the indicative proposed plans it is not considered possible to make a detailed assessment of residential amenity at this stage. However, considering the size of the site, quantum of development and indicative plans there is considered to be adequate space within the confines of the site to design a scheme which would accord with the

requirements of ALP policies D DM1 and QE SP1, and the Arun Design Guide.

#### AFFORDABLE HOUSING:

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

A total of 29 dwellings are proposed to be provided as affordable (30%). The proposed development comprises the following affordable housing mix:

- 1 bed dwellings (35%);
- 2 bed dwellings (45%);
- 3 bed dwellings (17%); and
- 4 bed dwellings (3%).

The proposed mix broadly reflects the indicative mix in AH SP2, albeit over-providing 2 bed units and a slight under provision of 4 bed units. The applicant proposes a tenure split of 75% affordable rent and 25% intermediate dwellings, which accords with the requirements of policy AH SP2.

Therefore, should a S106 agreement be made the proposal would accord with ALP policy AH SP2. However, given the absence of a completed s106 agreement at this time, the proposal is currently in conflict with ALP policy AH SP2.

#### HOMES FOR OLDER PEOPLE:

Arun DC agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted policy or a supplementary planning document but is considered to have some weight as a material planning consideration. It is supported by references in ALP policies D DM1 & D DM2. This requires at least 48 of the homes (50%) are designed to the M4(2) standard, and that 4 are designed to meet M4(3) i.e. be wheelchair accessible.

Given the outline nature of the proposal and the detail of the indicative proposed plans it is not considered possible to make a detailed assessment of this element at this stage, but it would certainly be possible to design a scheme that is compliant with policy.

#### FLOOD RISK & SURFACE WATER DRAINAGE:

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

The application site is located in Flood Zone 1 and as such is a low risk from both fluvial and pluvial flooding. A combined Flood Risk Assessment and Drainage Strategy was submitted with the application. During the course of the application a Technical Note (TN001 Rev 2) was submitted to address issues raised by both the LLFA and Arun Drainage Engineers.

Following a further round of consultation with the LLFA and Arun Drainage Engineers no objections have been raised with the FRA and Drainage Strategy proposed subject to the imposition of conditions.

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

#### FOUL DRAINAGE:

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

The foul drainage strategy shows a gravity fed system to a pumping station in the southeast of the site which would then connect to the public foul sewer located in Wandleys Lane.

Southern Water have considered the proposal and raised no objection to the application. While SW have not specifically raised capacity issues in their response, the applicant has been in early discussions with SW who have confirmed there are capacity issues within the Lidsey Catchment Area. Nonetheless it is believed this could adequately be dealt with through the use of an appropriately worded condition. Subject to this, the proposal would accord with Policy W DM1 of the Arun Local Plan.

#### ENERGY AND CLIMATE CHANGE:

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

The submitted Energy and Sustainability Strategy Report confirms that the proposal can comply with the requirement of policies ECC SP and ECC SP2 of the Arun LP. Air source heat pumps are proposed on all dwellings and water usage is anticipated to be below the 110L per person per day threshold. These measures could be secured via planning condition.

#### PUBLIC OPEN SPACE & PLAY:

Arun LP policy OSR DM1 requires housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. The Councils SPD "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for 6,686 sqm of Public Open Space (POS) and a separate play provision of an onsite of 1,150 sqm as well as LEAP and LAP provisions.

Open space is provided throughout the site to a total of 22,411 sqm. This is broken down to 2,115 sqm community orchard, 792 sqm allotment space, 13,000 sqm ecological enhancement areas, 893 sqm play provision containing a LEAP and LAP, attenuation basins totalling 2,311 sqm. The total area of public open space provided (removing all ecological and attenuation features) would be 7,100 sqm. This provision is significantly in excess of the requirement of ALP policy OSR DM1 and the open space SPD. The submission notes that the allotment provision falls short of the requirements but that the community orchard provides an alternative means of community growing provision.

The attenuation basins proposed which has a dual purpose of encouraging wildlife and to provide an attractive feature for future and existing residents as well as forming part of the sites sustainable drainage system.

The large amounts of open areas provide significant planting opportunities which would be of both a benefit to local wildlife but also serve to enhance landscape buffers to screen the built form proposed.

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

## MINERALS

The applicants Planning Statement set out that while the site is within the Sharp Sand and Gravel Mineral Safeguarding Area the site would not be suitable for the full prior extraction of the safeguarded mineral resource owing to the potential unacceptable impacts this would cause on the amenity of nearby residential receptors.

## SUPPORTING INFRASTRUCTURE:

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

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

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

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

WSCC as the Local Education Authority have objected to the application as there are not sufficient spaces within secondary schools within the area to accommodate new pupils. As an interim solution, WSCC require transport contributions to cover costs to transport pupils from Arun District to alternative secondary schools within West Sussex which cannot be covered by CIL payments. A s106 contribution is sought from WSCC Education for school transport to mitigate the impacts of the proposed development upon Education.

NHS Sussex has made a request for a contribution of £144,665.00 towards the new primary care facility at The Croft, Eastergate. The council operates an adopted CIL Charging Schedule and, as such, contributions towards health care provision can be met through CIL. Therefore, the NHS Sussex request for a contribution through a s106 agreement is not considered to meet the statutory tests and has not been sought by officers in this instance.

A S106 agreement to secure the abovementioned obligations to provide affordable housing and an Education Transport Contribution has not been completed and the proposal is therefore unacceptable in this regard.

## SUMMARY & PLANNING BALANCE

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 4.17-years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered. This states where there are no relevant



Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

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

As such, while paragraph 11d does apply and the 'tilted balance' is engaged, given that the WNDP meets both criteria of Paragraph 14, it is considered that paragraph 14 also applies and that the adverse impacts of allowing development the conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

In respect of the paragraph 11 d part (ii) test, the report identifies that the proposal is in conflict with the council's policies in respect of: development outside of the built up area boundary; impacts upon trees; impacts upon the strategic road network; impacts upon the character and appearance of the area, and inadequate provision for housing and education infrastructure.

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

The weight to be applied to the contribution of housing development to the HLS is considered to be significant, given the LPA's HLS shortfall. While the provision of 30% affordable housing is a benefit of the scheme this is a policy requirement and, as such, is only given limited weight. Similarly limited weight is given to the economic benefits of the scheme, limited weight to the environmental benefits of the scheme such as biodiversity enhancements, and neutral weight to the social benefits of the scheme.

Significant weight is also given to the conflicts with policies with regard to impacts upon the Strategic Road Network.

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

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

## **HUMAN RIGHTS ACT**

Human Rights Act:

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

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

## DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

## RECOMMENDATION

### REFUSE

- 1 By virtue of its location outside a defined built up area boundary in an area of countryside, the development is contrary to policy HP1 of the Walberton Neighbourhood Development Plan, the National Planning Policy Framework and Policies C SP1, SD SP1, SD SP1a and SD SP2 of the Arun Local Plan.
- 2 In the absence of a signed Section 106 legal agreement, the proposed development makes no contribution towards affordable housing or education transport in conflict with policies AH SP2, ENV DM2, INF SP1, INF SP2, OSR DM1 of the Arun Local Plan and the National Planning Policy Framework.
- 3 Insufficient information has been submitted to demonstrate the proposal would not have harmful impacts upon the strategic road network contrary to policies T SP3 and the National Planning Policy Framework.
- 4 The access to the proposal would result in the loss of category B trees which have important amenity value. The loss of these trees is not outweighed by the benefits of the scheme and as such the proposal is contrary to policy ENV DM4 of the Arun Local Plan.
- 5 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## BACKGROUND PAPERS

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

**WA/35/23/OUT - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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