

Recommendation Report for Approval of Reserved Matters Following Outline Approval

REF NO:	AL/137/24/RES
LOCATION:	Land rear of Meadow Way including 24 Meadow Way Westergate
PROPOSAL:	Approval of reserved matters following outline consent AL/178/22/OUT for appearance, landscaping, layout and scale for 89 No. dwellings with open space and associated works (resubmission following AL/50/24/RES). This application is in CIL Zone 3 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	<p>This is a resubmission of AL/50/24/RES which is to be heard at an appeal hearing in April. The applicant has made the following changes since the previous refusal:</p> <ul style="list-style-type: none"> - The layout now shows a 'focal point' at the centre of the site on the main spine road which introduces design features such as alternative surfacing, areas of open space, tree planting and an informal footpath. - The layout has been amended to rearrange the dwellings in the south-west corner of the site to provide a greater off-set to the protected Coast Redwood trees. - The communal amenity area for the flats has been increased to 88m². - The landscaping scheme has been amended in respect of tree planting. - The scheme has been amended to ensure that where some of the interface distances fall short, there are no direct facing windows. - The Design and Access Statement (DAS) includes justification for the appearance and character. - The scheme introduces scrub planting around the electric substation to reduce its prominence. - The design of the flatted building has been improved and the materials varied. - The footpath from Hook Lane has now been widened to 3m. - The scheme includes a traffic calming zone on the central spine road to reduce vehicle speeds. - Footways also now terminate onto shared surfaces directly to avoid ambiguity. - All standard parking spaces are now 2.5 by 5m. - Twelve accessible parking spaces have been provided. - An updated drainage statement is submitted with the application; and - The submission now includes the items required by the
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outline conditions as stated in refusal reason no. 4.

The application seeks reserved matters for 89 dwellings with associated public space, landscaping, parking, ecological mitigation, and drainage. Approval of scale, layout, external appearance, and landscaping are sought. Application AL/178/22/OUT approved the access arrangements. Of the 89 total, 27 will be affordable units (7 first homes, 18 affordable rented, 2 shared ownership). In addition, 43 of the homes (28 market & 15 Affordable) will be built to the M4(2) Building Regulations standard and 4 will be to the M4(3) standard, the latter being solely within the affordable tenure.

The scheme includes 212 allocated parking spaces plus 18 visitor spaces. Five of the allocated spaces meet the disabled standard and are provided for the M4(3) units (7 further accessible spaces are provided for visitors). Cycle parking is indicated to either be within cycle storage sheds in rear gardens, in garages or a communal store. All properties will have bin storage spaces and there will be bin collection points dotted around the layout. Plans of the garages and the cycle sheds are included.

With the exception of the flatted buildings (3 storeys), all other dwellings are two storeys. The flatted building provides 9 x 1 bed units and there are also two pairs of maisonettes with 1 bedroom each. The building designs are mixed with several different house types including detached, semi-detached, and terraced.

As per the outline permission, the site will have a main vehicular access onto Meadow Way on the eastern side of the site. This takes the form of a 5.5m wide carriageway with a 2m footway on one side. These dimensions and arrangement continues through the layout via the main estate road. A footpath will be provided on the western side to meet Hook Lane and there will also be a footpath link at the eastern end onto the footpath that runs parallel to the southern boundary. The latter includes a tactile paved crossing point in the estate road to allow the footpath to be reached from the new footway.

The main area of Public Open Space (POS) is at the eastern edge although this is also shown as part drainage attenuation. This area also includes equipped and unequipped play areas. There are additional landscaped/wildlife buffer areas along the northern and southern boundaries and at the western end. An electric substation is shown adjacent to the main estate road just in from the site access.

SITE AREA

3.80 hectares

RESIDENTIAL DEVELOPMENT DENSITY 23.4 dwellings per hectare.

TOPOGRAPHY

The site and surrounding land is generally level.

TREES

There are no trees within the site area but there are trees, tree groups and hedges along all of the boundaries. The application proposes to remove part of tree group G6, the whole of G7 Beech, and part of G10 all to facilitate the site access from Meadow Way. In addition, part of the hedge along the southern boundary (H2) will be removed to create an opening onto the footpath.

The site is covered by a Tree Preservation Order (TPO) which protects 2 x Oak trees on the western boundary, a group of 2 Coast Redwoods also on the western boundary, and 2 x Oak Trees on the eastern boundary. The other (non-TPO) pruning works are as follows:

T1 & T2 - Crown lift radially to provide circa 2.5m vertical ground clearance.

H2 - Selectively prune the hedgerows eastern and western extents by circa 1.5m to provide sufficient room for construction.

G3 - Selectively prune oversailing parts of the group's eastern crown spread by up to circa 1.5m to enable the erection of boundary treatments.

G6 - Selectively prune the western crown spread by up to circa 1.5m to provide working room during the proposed outfall installation.

BOUNDARY TREATMENT

The site is bordered by mature trees to the west, a hedgerow to the south, hedgerows/mature trees to the north, and mature trees/residential fences to the east.

SITE CHARACTERISTICS

The site is a large arable field bordered to the south by a footpath with residential development beyond, to the west by a residential property and Hook Lane, to the east by a group of dwellings on Meadow Way and to the north by an open field with agricultural buildings.

CHARACTER OF LOCALITY

The site is located to the north and west of existing residential development. Existing residential development is predominantly low density and one or two storeys in height.

RELEVANT SITE HISTORY		
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AL/50/24/RES

Reserved matters application for the appearance, landscaping, layout and scale (pursuant to outline permission AL/178/22/OUT) for the construction of up to 89 residential dwellings, open space, and associated works. This application is in CIL zone 3 and is CIL liable as new dwellings.

Refused
14-08-24

AL/178/22/OUT

Outline planning application with all matters reserved,

Refused

REPORT_1011(ODB)

except principal means of access and demolition of 24 Meadow Way, for the construction of up to 89 No residential dwellings, with access taken from Meadow Way, together with the provision of open space, landscaping and associated infrastructure.

26-04-23
Appeal: Allowed+Conditions
08-12-23

AL/107/16/RES	Application for Reserved Matters application following Outline Planning Permission AL/39/13 for the demolition of Oakdene and all other structures within the site and the erection of 79 dwellings, public open space, children's play areas, landscaping, drainage measures, sub-station, pumping station and all other associated works.	ApproveConditionally 24-05-17
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AL/178/22/OUT was allowed on appeal in December 2023. The land to the immediate south was granted reserved matters in 2017 (AL/107/16/RES) for 79 dwellings and has been completed.

AL/50/24/RES was refused for 4 reasons in August 2024. The decision has been appealed and will be subject to an appeal hearing on 08 April 2025. No pre-application advice was sought prior to that submission but AL/137/24RES was subject to such advice and this concluded "This revised scheme fails to address the bulk of the previous refusal reasons and officers would be unable to support a recommendation to approve without substantial amendments. Despite the significant benefits of this development, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits."

REPRESENTATIONS

Aldingbourne Parish Council object for the following reasons:

- (1) No changes to the overall scale of the proposal.
- (2) The flatted building is not in character with the surrounding development.
- (3) Clustering of affordable homes along the southern edge.
- (4) Affordable homes are not indistinguishable from market housing.
- (5) Occupation of the site must be phased to align with sewage treatment reinforcement works.
- (6) Site is prone to groundwater flooding which could compromise surface water drainage system.
- (7) The drainage submission is incomplete and inadequate to demonstrate drainage of the whole site.
- (8) No details of any works to widen/light the existing footpath to which the Parish Council would strongly object to.
- (9) No details of climate change mitigation or energy efficiency measures.
- (10) Lighting has not been addressed.
- (11) Site is not sustainably located with regard to local services.
- (12) Need new ecology surveys; and
- (13) No development should commence until after the A29 realignment works have taken place.

In addition, 62 letters of objection raising the following concerns:

- (1) Aldingbourne has already fulfilled its quota of housing.
- (2) Aldingbourne has already seen 312 new homes approved in the last 8 years.
- (3) New homes that have been built are not selling.

- (4) The previous application and proposed access from Meadow Way was dismissed on appeal.
- (5) Loss of important farmland.
- (6) Insufficient parking provision leading to overspill on surrounding estates.
- (7) Dangerous junction with the A29.
- (8) Increased traffic and more potential for accidents.
- (9) Increased road surface damage.
- (10) The developer should be held responsible for increased wear on local roads.
- (11) The access will be inadequate for refuse vehicles.
- (12) Inadequate local infrastructure including schools, doctors.
- (13) Inadequate local employment sources for new residents.
- (14) Inadequate local sewage system/capacity.
- (15) New developments should contribute financially to the Parish Council.
- (16) Not in character with the surrounding bungalows and there are no flatted buildings nearby.
- (17) The density is out of character.
- (18) Three storey flats will affect privacy and light levels of existing dwellings and should be located elsewhere.
- (19) The houses on the southern edge/at the south-western corner are too close to existing homes and will invade privacy.
- (20) Flats are known to attract crime.
- (21) Clustering of affordable homes along the southern edge.
- (22) Light pollution.
- (23) No details of climate change proposals.
- (24) Increased risk of surface water flooding to surrounding land/property.
- (25) Disruption, noise, and air pollution from the construction phase.
- (26) Noise disturbance from the site and access.
- (27) Loss of important wildlife species/habitat.
- (28) Harm to bats at the Slindon bat tunnel.
- (29) Scheme only makes minor changes to the previous refusal.
- (30) The developer has already erected a sign to advertise the development.
- (31) New electricity installation works have already commenced.
- (32) No community consultation by Redrow.
- (33) No party wall agreement yet in place for demolition of 24 Meadow Way.
- (34) Will reduce property values; and
- (35) These homes should only be sold to local people.

COMMENTS ON REPRESENTATIONS RECEIVED:

Many of the issues raised are relevant to either the principle of development or the access arrangements which were determined through the outline application. These include Parish Council objection (11) and resident objections (1), (2), (4), (5), (7), (8), (9), (10), (11), (12), and (13). The same is true of matters relating to construction management, climate change, and foul & surface drainage as these matters are covered by conditions attached to the outline permission. As these are not relevant to the reserved matters, it is not relevant to respond to these through this report. In respect of the remainder of the objections these are either discussed in the conclusions section or commented on below.

Parish Council:

- (8) There are no proposals to widen or light the existing footpath. All lighting on the southern boundary is bollard style.
- (13) It is not appropriate to restrict the timeline of this development through this application.

Local Residents:

(3) Irrespective of whether new homes are selling or not, up to 89 homes have been approved in principle.

(15) If the application were to be approved then it would be required to pay the Community Infrastructure Levy and 25% of the total would be transferred to the Parish Council.

(30) The sign was erected without consent. AL/21/25/A has been submitted to regularise it.

(31) No planning permission is required for electric improvement/maintenance/repair works by a statutory undertaker therefore the Council has no control over such works.

(32) Whilst it is actively encouraged, there is no actual planning requirement for the applicant to carry out community consultation.

(33) The lack of an agreed party wall agreement with no. 23 is not a material planning consideration.

(34) The impact of planning permission on house prices is not capable of being a material planning consideration.

(35) The s106 agreement signed in relation to the outline permission did not contain a stipulation that the homes must only be sold to local people, and it is not possible to introduce such a requirement at this stage.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

SUSSEX POLICE - no objection but list a number of advisory notes regarding improving security.

SOUTH DOWNS NATIONAL PARK - not consulted but advised on AL/50/24/RES that they had no objection in regard to impacts on the setting of the National Park. This was in light of (1) the distance of the site from the National Park boundary; (2) the intervening development (including the A27); and (3) the topography and landscape character of the intervening area which does not create any visual relationship between the site and the National Park. Requested that lighting be carefully considered.

WSCC FIRE & RESCUE - request that a condition be imposed to secure sufficient fire hydrants.

WSCC HIGHWAYS - following re-consultation, state no objection but recommend changes:

- The 1.2m footway linking the main access road with the shared use surface on the corner of plot 19 is under minimum width standards and recommend this is increased to a minimum of 1.5m; and
- Whilst it may not be desirable to have connections from each cul-de-sac onto the Public Right of Way, the removal of all of these reduces permeability of the site and it is recommended at least 1 connection is still provided at the end of the cul-de-sac between plots 58 and 70.

WSCC LEAD LOCAL FLOOD AUTHORITY - requested that the drainage conditions be discharged prior to this application being granted.

WSCC PUBLIC RIGHTS OF WAY - state disappointment that there are now no proposed links to the southern footpath.

ADC TREE OFFICER - no comments received however it is clear from the previous application that despite the changes made in the south-western corner, there was also concern with the relationship of other trees on the western boundary to retained/protected trees.

ADC LEISURE & LANDSCAPE - objects due to inadequate detail of the play areas, insufficient number

of un-equipped play areas, insufficient useable Public Open Space, and decentralised location of the same. Also comments that there is limited tree planting within the open space areas due to the drainage requirements and a lack of good green infrastructure across the development as a whole due to layout constraints, leaving proposed trees little space to establish and thrive without the potential for future prune/removal.

ADC AFFORDABLE HOUSING MANAGER - no comments received but previously stated no objection to the affordable mix but did object to the clustering of the affordable housing.

ADC ENVIRONMENTAL HEALTH - states no objection.

ADC ECOLOGY OFFICER - recommends additional conditions but also requests further information regarding wildflower planting and objects to the use of bramble.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and will be addressed in conclusions section except as discussed below.

WSCC FIRE & RESCUE - a fire hydrant condition was imposed on the outline permission.

WSCC HIGHWAYS - the applicant has not sought to amend the scheme further in respect of the remaining two comments however, it is noted that WSCC do ultimately state no objection.

WSCC LEAD LOCAL FLOOD AUTHORITY - the outline conditions require discharge prior to commencement not prior to approval of reserved matters. The LLFA were therefore asked to provide a revised response, but none has been provided. However, they did provide further amended comments regarding the appeal of AL/50/24/RES to say that:

- There are occasions where the levels in the Drainage Layout do not match levels used in calculations.
- As this is a reserved matters application and the layout is being set, full network calculations are required.
- Freeboard has not been considered in calculations.
- The watercourse and its' 3m easement needs to be clearly shown on drawings to ensure the riparian owner of the watercourse is able to carry out maintenance. The easement must also be applied to culverted watercourses.
- Where any changes to the Drainage Layout are required, we would encourage the use of source control SuDS features, particularly in the residential areas.

These comments are not on the website for AL/137/24/RES but are listed on the website for AL/50/24/RES in relation to the appeal.

ADC ECOLOGY OFFICER - the applicant has not sought to amend the scheme in respect of the two issues, but conditions could be used to resolve these.

POLICY CONTEXT

Designations applicable to site:

- Outside the Built-Up Area Boundary (BUAB).
- Current/Future Flood Zone 1.
- Lidsey Treatment Catchment Area.
- Tree Preservation Order ref TPO/AL/2/23

- Public Right of Way (PRoW) ref ALD/299/1 along the southern boundary.
- WSCC Mineral Safeguarding Area (Sharp Sand & Gravel).
- ANDP Biodiversity Corridor (Hook Lane).
- CIL Zone 3.
- Within 12km of the Singleton & Cocking Tunnels Special Area of Conservation.
- Area of Advert Special Control; and
- Archaeological Notification Area.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVSP1	ENV SP1 Natural Environment
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HWBSP1	HWB SP1 Health and Wellbeing
HDM1	H DM1 Housing mix
LANDM1	LAN DM1 Protection of landscape character
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

Aldingbourne Neighbourhood Plan 2019-31 Policy H3

Aldingbourne Neighbourhood Plan 2019-31 Policy H4	Affordable Housing
Aldingbourne Neighbourhood Plan 2019-31 Policy H8	Outdoor space
Aldingbourne Neighbourhood Plan 2019-31 Policy EH1	Built up area boundary
Aldingbourne Neighbourhood Plan 2019-31 Policy EH5	Surface water management
Aldingbourne Neighbourhood Plan 2019-31 Policy EH6	Protection of trees and hedgerows
Aldingbourne Neighbourhood Plan 2019-31 Policy EH10	'Unlit Village' status
Aldingbourne Neighbourhood Plan 2019-31 Policy EH12	Protection of bat habitats

Aldingbourne Neighbourhood Plan 2019-31 Policy GA1 Promoting sustainable movement

Aldingbourne Neighbourhood Plan 2019-31 Policy GA3 Parking and new developments

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 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 of the Aldingbourne Neighbourhood Development Plan are considered within this report.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal conflicts with relevant Development Plan policies in that the submission is deficient in many respects and therefore does not achieve a high standard of design/amenity quality and represents an overdevelopment of the site. There is also insufficient information in respect to drainage.

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

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

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Section 38(5) states: "If to any extent a policy contained in a development plan for an area conflict with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Therefore, the Aldingbourne Neighbourhood Development Plan (ANDP) would take precedence over the Arun Local Plan (ALP) should there be any conflict between the two.

AL/178/22/OUT agreed a development of up to 89 dwellings together with the provision of open space, landscaping, and associated infrastructure. Vehicular access was agreed to be from Meadow Way (via the demolition of no. 24) and there would also be pedestrian access onto Hook Lane. The outline permission established the principle in respect of flood risk, traffic generation, highway safety, archaeology, impact on wildlife, loss of agricultural land, mineral safeguarding, countryside location, foul drainage (the principle of the new dwellings connecting to the network) and provision of affordable housing, public open space & children's play.

COMPLIANCE WITH OUTLINE CONDITIONS:

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

(3) The Reserved Matters (RM) is to be in accordance with the Site location plan 1318.01; Parameter plan 13.18.03; Proposed Site Access drawing 1809023-04 Revision C; Improvements to Pedestrian Route and Bus Stops at Westergate Street drawing 1809023-06 Revision B; and Hook Lane Pedestrian / Cycle Access Arrangement drawing 1809023-07 Revision A.

The scheme is in full accordance with these drawings. It is noted that the parameter plan shows the vast majority of the Public Open Space (POS) on the eastern side of the site and the layout reflects this. However, it the Council's view, having regard to case law in *R (Swire) v Canterbury City Council* EWHC 390 (Admin), that this does not mean that it is necessary to strictly adhere to the parameter plan layout and that this should not prevent there from being open space elsewhere within the layout. This matter is covered in more detail on pages 19-20 of the Councils appeal statement for AL/50/24/RES.

(4) The RM must include details of existing trees/hedges, landscaping (including 2:1 new planting & native trees), boundary treatments including hedgehog gaps, external lighting, POS & play provision, a Biodiversity Gain Plan, a reptile mitigation strategy, and a biodiversity enhancement strategy.

Whilst AL/50/24/RES only achieved partial compliance, this RM application now includes all of these requirements. It has also been confirmed by the applicant that no lighting is proposed on the house elevations themselves therefore all lighting is within the public areas of the layout and comprises either columns or bollards.

(5) The RM must include details of electric vehicle charging points (EVCP), a levels survey, cycle storage details (including elevations) and a colour materials schedule.

Whilst AL/50/24/RES only achieved partial compliance (no EVCP specification was provided), this RM application now includes all of these requirements.

(6) The RM is to include details of any temporary sales areas.

These have been included.

(7) The RM is to include details of the provision of M4(2) and M4(3) housing to meet the council's policies.

This has been included. The submission is slightly deficient against the council's own policy note but this does not have Supplementary Planning Document (SPD) status and is outweighed by ANDP policy H2 which the scheme does comply with.

(8) The RM is to include details of roads, paths, and parking areas.

These are included.

LANDSCAPING:

ALP policy LAN DM1 requires that development have special regard to the conservation of the setting of the South Downs National Park (SDNP), including views into and out of the Park. Development must also respect the particular characteristics and natural features of the relevant landscape character areas. ALP policy D DM1 requires new landscaping. Policy ENV DM4 states TPO protected trees or those that contribute to local amenity should not be damaged or felled unless the development meets certain criteria including that the benefits outweigh the loss of trees or woodland.

ANDP policy EH1 states development in the countryside must protect the local landscape character and wider setting of the South Downs National Park and support the dark skies policy. The ANDP 'dark skies' policy (EH10) states development proposals which detract from the unlit environments of the Parish will not be supported but that new lighting must conform to the highest standard of light pollution restrictions. Policy EH6 relates to trees and is similar in scope to ENV DM4.

The SDNP Authority previously stated no impact on the setting of the National Park but requested consideration of the impact of new lighting. The starting point is that it would be inappropriate to prevent any form of lighting in a residential environment as this would result in safety and security issues. The proposed lighting scheme comprises 1m high bollard style lamps to the boundary areas with 6m columns predominantly sited along the main estate road (12 total). There is a 13th column light towards the northern boundary (east of plot 27), but this is 20m from the northern boundary where there is an extensive group of retained trees/hedging.

The bollard lights will all be fitted with rear back shields to prevent light spill onto hedgerows / boundary vegetation for the protection of bats. All lighting temperatures are 3000K and this is in accordance with the comments of the council's ecologist. The lighting proposals appear to have been carefully considered and will minimise the amount of light spill outside of the site confines.

The councils Landscape Officer states in respect of landscaping that whilst the submitted scheme is suitable for application and location, new trees are not afforded sufficient space to grow and thrive such they will be subject to future pruning or removal (adjacent parking areas or in/adjoining private gardens). Also, due to the drainage features, tree planting on the open space is restricted to the edges.

A total of 121 new trees (up from 107 on AL/50/24/RES) are proposed to be planted which easily meets the requirement for two trees to be planted for each one lost and so whilst the Landscape Officer concerns are noted, it would be difficult to justify a refusal solely on these grounds.

The proposed scheme fells a minimal number of trees, and these are required to allow the proposed estate road to meet the agreed vehicular access point. There is also minimal pruning proposed. However, it is clear from the layout that plot 37 is just east of an important off-site TPO tree and this results in a change of use of land within its Root Protection Area (RPA). This tree will therefore have potential for future nuisance value to residential occupiers such as from leaf litter and other falling objects. The tree will also shade part of the garden affecting new planting whilst digging by residents (or the placing of outbuildings etc) all have the potential to harm roots. The Arun Design Guide requires that the RPAs of important trees are located outside of residential curtilages and that an additional buffer is provided around the RPAs. In addition, plots 38-46 back onto G3, a mixed group of trees and the gardens of these properties will conflict with the RPA of this group.

The arrangement of houses along the western edge will therefore result in future pressure for the retained trees to be felled and pruned which would conflict with the purpose of both the TPO and generally retaining trees. It is also likely that the TPO tree in the NW corner will be obscured from public view by the new houses. The Tree officer objected on this basis and requested a landscaped buffer along the western boundary.

In summary, the proposal is acceptable in respect of landscape and lighting impact, but the layout will harm important off-site trees, and the scheme does not maximise the potential value of new tree planting. There is conflict with ALP policies D DM1 and ENV DM4, and with ANDP policy EH6.

LAYOUT, APPEARANCE AND SCALE:

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 AH SP2 seeks to ensure affordable housing is visually indistinguishable from market housing and layouts avoid large clusters. ANDP policy H3 states density should be appropriate to location whilst H9 requires that house designs include certain 'add-on' items (e.g., gutters, satellite dishes, meter boxes). The National Design Guide (NDG) is a material consideration in the determination of this application, as well as the Arun Design Guide (ADG).

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. It is noted that the overall density is within this range and that the layout does transition from a dense form of development (terraced dwellings and flats) on the southern boundary to a more spacious form (larger detached dwellings) on the northern edge. As such the density is acceptable in this instance.

However, it must be noted that outline permission was given for up to 89 dwellings and this does not mean that 89 dwellings are achievable having regard to the full range of policies on design, layout, scale, and character. The transition from south to north is too pronounced in that the southern area appears cramped and it is noted that there are no other instances of terracing outside of the southern area. This density is also at a juxtaposition to the more spacious northern edge of the recent development to the south which has predominantly semi- and detached dwellings along this edge.

It is also clear that the surrounding form of development is either bungalows or chalet bungalows and two storey houses. There are no instances of flatted buildings in either the recent development to the south or the other adjoining roads. There are some instances of three storeys (such as 21 & 22 Lamorna Gardens, and Swan Court, Pine Close, off the A29) but these are few and far between so as not to

define the character. On this basis the proposed flatted building is out of character in both principle and scale. Furthermore, its siting on the main estate road and its large form means that it will be prominent in views from the vehicular access.

It is recognised that some objectors have suggested the flatted building should instead be sited on the northern boundary, but this view is not shared as this would be in conflict with the ADG on density and would also result in a greater impact on the open landscape to the North. Instead, the flatted building should either be omitted from the scheme or reduced in scale to a maximum of two storeys and then sited in a less prominent position. It is noted that four maisonettes are also proposed and that these are a form of flatted dwelling however as these outwardly resemble dwellings, they would be acceptable.

The applicant has stated that the scale of the flatted building is appropriate on the grounds that the parameter plan states, "a maximum 2.5 storey development (up to 11.5m)". This is accepted however this is a maximum and does not automatically imply that this is acceptable particularly as the parameter plan was prepared by a previous applicant and the Council did not assess scale at the outline stage.

As with the flatted building, the proposed substation is also sited prominently on the main estate road. However, it is accepted that its position is dictated by the route of the electricity supply. The application now proposes enhanced landscaping around it and therefore, this issue (which previously formed part of the refusal reason) has been overcome.

It is recognised that the layout is required to broadly follow the agreed parameter plan, and it does do this. However, this plan was prepared when the scheme was illustrative, and it does not follow that the illustrative scheme was acceptable in all respects. In any case, the parameter plan indicates that open space will be provided in all parts of the site not just at the eastern end.

The Local Planning Authority's (LPA) main concern with the layout as a whole is that the open spaces is all at the eastern end and is also insufficient in amount. The adjacent development to the south includes a broadly central 'square' of open space and play facilities which is overlooked by surrounding properties and provides a positive focus to the visitors entering the site. The arrangement on the adjacent site is not perfect as this 'square' also includes a balancing pond which is surfaced with rocks and has fencing around it. When dry (which in experience it predominantly is), it has an artificial appearance which detracts from the streetscene.

There is an opportunity with the Meadow Way development to replicate this arrangement somewhat by creating a centrally sited rectangular area of open space along the main estate road (perhaps in place of plots 14-19 or 62-79). This could also include a second unequipped play area. The addition of this along with the removal of the flatted building and a mixing of the densities across the site (along with resolution of other issues yet to be discussed) may result in a scheme capable of officer support.

It is noted that the applicant has revised the scheme to attempt to create a focal point in and around plots 19, 31, 52 & 62. This consists of small strips of public open space with some trees adjoining the residential curtilages. However, this does not equate to a central area of open space and its use (albeit it has very limited use value) by the public may result in conflicts with the adjoining residential curtilages.

In terms of design, it is positive that the layout includes landmark buildings which are high quality. However, the overall house design approach is haphazard. The street scenes show a mix of dwelling designs and material colours with no overall sense of place within the scheme. It would be positive if the whole layout was divided into character areas with each having specific features and variation between each. The applicant has stated that the DAS includes justification for the appearance and character. However, this only includes a short textual analysis of character and does not make any mention of character areas within the scheme.

There is also concern with the proposed affordable housing which is entirely located along the southern edge in the denser part of the site. The council's policy (backed up by the consultee comments) is clear that large clusters must be avoided, and that affordable housing should be spread through a site. In addition, affordable housing must be visually indistinguishable from market housing.

The proposed scheme does not achieve this as all of the flats and maisonettes are affordable whilst the affordable housing also has its own house types. The changes between the house types are not significant but they are still different. In addition, whilst it is accepted that there are three market terraced dwellings (plots 68-70) and (following amendment), a pair of semi-detached dwellings (plots 47 & 48) along the southern edge, it is clear that all other terraced dwellings in this area of the site are affordable.

It would be preferable if the affordable housing was spread throughout the site extent into two or three clear clusters and that a dwelling type other than terraced or flats were incorporated into the affordable tenure. There should also be a mixing of house types to maintain quality levels between tenures.

The applicant has stated that the affordable housing is not clustered as although they are all in a line, they are served by different access roads and comprise clusters of 7, 4, 7 & 9 with a mix of affordable tenures in each. This argument is not accepted as it is clear that all affordable dwellings are along the southern boundary with none anywhere north of the internal spine road. There has been some mixing of tenures with this application (swapping of market dwellings 47 & 48 with affordable 44-46) but whilst this is somewhat positive, it was actually proposed to resolve the impact on a protected tree.

The submission also includes a levels plan which is relevant to the consideration of scale. This shows that whilst the homes will be raised above the existing ground level, this will not be by a significant amount (a maximum of 0.5m but mostly less than this).

In summary, the proposal is acceptable in respect of overall density but is not in character with the surrounding area in terms of scale, does not promote good design quality or a sense of place and fails to provide an acceptable scheme regarding affordable housing. There are also concerns with the distribution of POS through the scheme.

PUBLIC OPEN SPACE (POS) AND PLAY:

ALP policies OSR DM1 and HWB SP1 are relevant to the consideration of POS and play provision but there are no applicable policies contained within the ANDP. The Council's supplementary planning document (SPD) for 'Open Space, Playing Pitches, Indoor and Built Sports Facilities' (January 2020) sets out specific requirements for on-site POS and play provision. The comments of the council's Landscape Officer are also relevant to this issue.

The SPD sets out an overall requirement of 7,343m² POS (this total includes 1,077m² of play) to include an equipped play area (LEAP) and at least two unequipped play areas (LAPs). The submission did not previously (AL/50/24/RES) state what the total amount of POS was or what was being considered as usable POS. The applicant has now provided such a plan (page 33 of the DAS), and this indicates a total of 8,108m² of POS. However, this amount includes the buffer areas along the northern & southern boundaries, the strip of land alongside the footpath at the western end, the strip of land bordering the access road (western end) and the small strips around the new focal point.

The Council's Landscape Officer in part objects to there being insufficient useable Public Open Space and the lack of a central area of open space. The Council's policy guidance (within the Open Space SPD and the ADG) does not support the inclusion of small strips of land and verge edges to be included within the calculations due to these not being useable spaces.

The northern area is also planted (required to form a buffer with adjacent open land) and this prevents public use. The landscaped strips along the northern and southern boundaries would have little value other than for visual amenity purposes. The area to the south-west corner is to the rear of new dwellings along a pathway and does not contribute to forming a welcoming and usable area of greenspace for the new community. The same is true of the strip at the eastern end and the focal point area.

It is unclear from the submission what the overall POS total would be if these areas were deducted. The Council's view is that there should be a central area of useable POS and that this may help to overcome the lack of sufficient open space within the scheme. It should also be noted that it is not appropriate to consider an area that will hold water at certain times of the year (or be permanently wet) as useable POS (i.e. the drainage features) and therefore it is not possible to consider this within the POS requirements.

It is also clear that all of the play provision is at the eastern end, and this is not positive. The play provision should be located in such a way as to be enticing to, and within easy reach of the whole development. The present configuration favours the eastern half of the site, resulting in a dense and urban layout to the development as a whole. As per the requirements of the SPD, the play provision needs to include a LEAP and at least two LAP's and it is not appropriate to site these all together. A central area of POS could also accommodate a second LAP thus resolving the issue of there not being adequate play provision within the scheme.

The Landscape Officer also advises that the proposed play provision falls below the standards set by the SPD stating that it needs to be inclusive and accessible providing an exciting and challenging offer with a good variety of play experiences. However, the list of play items indicated within the submission falls short on provision and specification, falls down on quantum and location and general play detail. The play detail needs detailed submission to include specification of play proposed, surfacing, fencing, street furniture, bins, pathway connection and pathway surfacing detail.

For these reasons, the proposal as a whole is in conflict with the relevant ALP policies including the Open Space SPD.

OTHER MATTERS:

(A) Housing Mix

ALP policy H DM1 requires a mix of housing to meet local needs and for all housing development to provide a mix of dwelling types and sizes to address this need and demand. The policy acknowledges that the final mix will be negotiated on a site-by-site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

Paragraph 63 of the "Updated Housing Needs Evidence" (September 2016) stated the evidence highlights a direction towards the provision of 2 and 3 bed units for market units and smaller affordable units. Table 29 identifies a suggested broad mix of market housing by size for the District:

- 1-bed dwellings: 5-10% of all dwellings.
- 2-bed dwellings: 40-45% of all dwelling.
- 3-bed dwellings: 35-40% of all dwellings; and
- 4+ bed dwellings: 10-15% of all dwellings.

The submitted typology plan indicates that the market mix is 5 x 1 bed, 24 x 2 bed, 24 x 3 bed, and 9 x 4/5 bed. However, on closer inspection of the submitted floorplans, it is noted that the Warwick and Amberley house types (which are listed as having 2 bedrooms) actually have 3 bedrooms and the 3rd

bedroom in each is at least 7.5sqm so counts as a single bedroom per the Government's Technical housing standards (Nationally Described Space Standard or NDSS). Therefore, the market mix is determined to be 5 x 1 bed (8%), 8 x 2 bed (13%), 27 x 3 bed (44%) and 22 x 4/5 bed (35%) and therefore conflicts with the SHMA guidance in respect of the proportion of 2 and 4/5 bed market homes.

Policy H DM1 does allow for the mix to be negotiated on a site-by-site basis and states this does not need to be in complete accordance with the latest SHMA. However, the submission includes no justification for the proposed market mix and so there is conflict with the policy.

It may be the case that this was also an issue on the previous application and was not identified by the LPA. On that application, a breakdown of market dwellings by bedroom number was supplied whereas with the new application, it was necessary to use multiple sources (typology plan, accommodation schedule, house type drawings) to calculate the market mix.

In terms of affordable housing, Policy AH SP2 sets out a mix comprising 35-40% 1 bed, 35-40% 2 bed, 15-20% 3 bed, and 5-10% 4 bed. The Planning Statement states the proposed affordable mix is 10 x 1 bed (37%), 11 x 2 bed (41%), 5 x 3 bed (18%) and 1 x 4 bed (4%) and this is also reflected by the typology plan. This is in accordance with Policy AH SP2.

(B) Residential Amenity & Space Standards:

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

- Back-to-back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/front to side: min. 14m between habitable rooms and side gable of adjacent property (technically, there is no stated requirement for front to side, but the impact is the same therefore it is appropriate to consider this).
- Front to front: min. 16m between habitable rooms and site boundary to existing landscaping.
- Front gardens should provide a minimum of 2m defensible space; and
- The rear gardens of residential houses should be at least 10.5m deep.

There are no conflicts in respect of the relationship to any existing residential properties outside of the site as all of the above distances are exceeded. The proposed flatted building would generate some concern though as its extra height would allow clearer longer distance views of the rear gardens of properties on Lamorna Gardens. Some residents also highlight the potential for light loss/shading from the flatted building. However, it is a significant distance from the houses on Meadow Way to the east and is positioned North of the homes on Lamorna Gardens and Hasler Grove. These factors mean there will be no adverse impacts on existing properties in this respect.

There were several issues with the distances between dwellings within the site on the previous scheme, but the applicant has stated that the scheme has been amended to ensure that where some of the interface distances fall short (to a maximum shortfall of 0.8m), there are no direct facing windows. The layout has been re-checked, and the only outstanding issues are as follows:

- The fronts of plots 64 & 65 to the front of plot 18 is 14.2m (versus a 16m standard).
- The north-western elevation of the flatted building (there are flats at first and second floors which have lounge windows in this elevation) to the flank of plot 80 (which has first floor landing/bathroom windows) is only 13m (14.5) however, the window on plot 80 can be obscure glazed to resolve this; and
- Plot 49 front to the side of plot 32 (containing a large first floor landing window) is 12.2m (14.5). However, this landing window can be obscure glazed.

As the latter two can be resolved with obscure glazing, this only leaves the relationship of plots 64/65 and 18. It is recognised that the ADG is guidance not policy therefore should not be rigidly applied. It is also positive that the previous scheme had a greater number of issues. However, the shortfall in this case is significant and exceeds the 0.8m maximum claimed by the applicant. If this were the only issue with the scheme then it would be unlikely to form a refusal reason however, it is an indication of overdevelopment and it is appropriate to include it within a refusal reason that identifies all of the issues and cumulatively determines the scheme to be an overdevelopment.

The applicant states that the scheme is an appropriate design solution for the site in accordance with the approved parameters that will deliver an efficient use of land. They also argue that the officer's report from the outline application stated that "Overall, sufficient information has been submitted on the parameters plans and the Illustrative Masterplan to demonstrate that the site could accommodate 89 dwellings, and no objections are raised in relation to density or landscape impacts." This is accepted as true, but the outline application was not determined against the same policies and design criteria as the reserved matters, and this is why the outline was granted for up to 89 dwellings rather than a set figure of 89. The statement in the outline report does not set any form of precedent for standards not being achieved in the detailed design.

Most of the proposed front and rear garden depths are acceptable however, there are some instances where rear gardens are not up to the standard. These are where it has been necessary for the applicant to provide a rear garden access and were also identified as issues on the previous application:

- 45 & 46 is around 9m.
- 68 is 9.5m.
- 71 is 9.3m; and
- 77 is 8.4m.

Again, these are significant shortfalls versus the required 10.5m standard. The need for a rear garden access is accepted but it should be possible to provide this in a layout without compromising the garden depth.

In terms of flats, the ADG sets out a need for private amenity spaces such as balconies or terraces of at least 3sqm of useable space; and communal shared spaces (a minimum of 40sqm plus 10sqm for each unit if not provided as balcony space). The maisonette provision is appropriate with each of the four dwellings (plots 56-59) having a private garden space exceeding the 3sqm standard. However, the flatted building has no private amenity space provision, and the communal space is only 88sqm in area (up from 69sqm as before). This comprises a strip to the immediate SE of the building. This represents a shortfall of 62sqm. The applicant continues to argue this is acceptable as the flats are adjacent to the open space, but the LPA's view is that the overall POS offer is deficient therefore it is not appropriate to reference this.

As per ALP policy D DM2, it is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (NDSS) to determine if the buildings will be suitable for future residential occupiers. The floorplans of each house have been cross referenced with the NDSS, and the minimum gross internal floor areas of the houses clearly meet the standards.

The proposed scheme is in conflict with the ADG in respect of interface distances and garden sizes. There is therefore conflict with ALP policies D DM1 and QE SP1.

(C) Parking, Roads, and Public Footpaths:

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 ensure ease of movement and prioritise safe pedestrian and cycle access. ANDP policy GA1 promotes cycling and walking whilst GA3 requires sufficient parking provision. Both the Arun Parking Standards SPD and the ADG contain guidance relevant to highway layout and parking.

As per the outline permission, there is a vehicular access at the eastern end of the site and a pedestrian footpath onto Hook Lane at the western end. A link to the Public Right of Way (PRoW) running alongside the southern boundary is also provided at the eastern end. It is noted that WSCC Highways state that additional links onto the PRoW would improve permeability however, it is also clear that there would be significant opposition to this from local residents.

According to the Parking Standards SPD, the development requires 201 allocated and 18 visitor parking spaces (219). This has been calculated as an increase on the previous submission due to the mix adjustments as noted above. The proposed provision is 212 allocated and 18 visitor spaces (230) however, 45 of the allocated spaces are in garages of at least 3m by 6m and as per the SPD, these only count as 0.5 of a space each thus resulting in a revised provision of 189.5 allocated spaces and 18 visitor spaces (207.5). This is therefore deficient versus the standards by 11.5 spaces.

However, the outline application was accompanied by a Travel Plan, and this was secured by the legal agreement (which included its implementation and monitoring). The Parking SPD states at para 3.2 that:

"To satisfy the promotion of sustainable travel modes and choices, it is considered that a 10% variation below the target parking demand value be allowed where appropriate travel option provision is provided including travel plans, public transport contributions (e.g. through section 106 contributions involving Strategic Allocations and Community Infrastructure Levy once adopted, for other non-strategic sized developments for offsite infrastructure of a strategic nature) and other sustainable travel initiatives. This is also as a result of increasing affordability issues resulting in young people staying with parents for longer."

The parking shortfall represents a circa 5% reduction and is therefore acceptable given a Travel Plan has been secured. The scheme also includes cycle storage in accordance with the standards in the SPD. Pedestrian and cycle connections in the layout will allow residents to reach local shops/services without needing to use a car.

The Parking SPD also requires that layouts include parking spaces suitable for disabled people and that this should be consistent with guidance in "Manual for Streets" (which requires that 5% of all spaces are suitable). The previous scheme only provided 5 disabled parking spaces to serve the proposed M4(3) dwellings but 5% of the total is 12 therefore the scheme was deficient by 7. The revised scheme now includes 12 access spaces comprising the afore mentioned 5 and 7 further spaces for visitors.

This is acceptable in terms of provision. However, officers had requested during pre-application negotiations that these be spread throughout the site with at least 4 of the 12 being in the western half of the site (the area of plots 19-70) but only 1 is shown in this western area. Manual for Streets states at 8.3.25 "It is preferable to provide these spaces in unallocated areas, including on-street, as it is not normally possible to identify which properties will be occupied by or visited by disabled people." The distribution of the accessible visitor spaces is not therefore appropriate.

The ADG states that standard parking spaces should be 2.5m by 5m rather than the previous 2.4 by 4.8m standard. The previous application did not achieve this, but this has now been resolved through the

amended scheme.

The Highway Authority (WSCC) have identified a couple of outstanding concerns with the layout but do not state any objection. WSCC identified far more issues on the previous scheme, and it is clear that the applicants have resolved the issues to the satisfaction of WSCC.

The proposal therefore remains in conflict with policies regarding the distribution of accessible spaces, but all the other issues have been resolved.

(D) Surface Water Drainage

This is strictly a separate matter as drainage is covered by conditions on the outline planning permission and will be agreed through the discharge of such conditions. However, WSCC have assessed the proposed drainage scheme in order to assess whether the amount and location of development is realistic having regard to the drainage requirements.

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. ANDP policy EH5 requires new development make appropriate provision for accommodating the surface water arising from the development.

The application includes a Drainage Strategy report and associated drawings, but as set out elsewhere WSCC are not yet able to support the scheme and so it is appropriate to retain the previous refusal reason relating to drainage as it is not currently possible to determine compliance with the relevant policies.

(E) Biodiversity & Net Gain:

ALP policy ENV SP1 states ADC will encourage and promote the preservation, restoration and enhancement of biodiversity and the natural environment. Where possible it shall promote the creation of new areas for habitats and species. ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. ANDP policy EH6 requires that developments retain hedgerows, incorporate biodiversity in layouts and demonstrate biodiversity net gain.

It should be noted that the corresponding outline application was received prior to the introduction of statutory Biodiversity Net Gain (BNG) and so there is no requirement for statutory 10% BNG. However, the Inspector imposed a condition (4) on the outline permission that required a Biodiversity Gain Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30-year period. The same condition also required submission of a Reptile Mitigation Strategy, a Biodiversity Enhancement Strategy, and a lighting scheme sensitive to bats.

This second RM submission now achieves compliance with the requirements of the outline condition and the Council's Ecologist now longer requests further information and instead recommends conditions to secure additional enhancements. It is noted that three tree groups are to be removed either in full or part and also a very small part of a hedge. Notwithstanding the concerns of the Landscape Officer with the tree planting proposals, the landscaping scheme nevertheless shows the planting of a significantly greater number of new trees than the number to be lost (predominantly native species) so the proposals will also achieve an initial net gain in tree units on the site. The application demonstrates biodiversity enhancement and there is no conflict with ALP policy ENV DM5.

(F) Impact on the Singleton & Cocking Tunnels Special Area of Conservation (SAC)

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The site lies in the 12km buffer area of the SAC. Depending on the level of the likely impact, developments within the buffer area may require an appropriate assessment as per the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) and consultation on this with Natural England.

The outline appeal decision includes an assessment of the likely impacts on the SAC and stated "35. The development would avoid any potential significant adverse effects on the integrity of the SAC, when considered alone or in combination with other plans or projects. Therefore, it is not necessary for me to undertake any further consultation with Natural England on this matter or to undertake an Appropriate Assessment under the Habitats Regulations."

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

SUMMARY

This second reserved matters has attempted to overcome the concerns of the LPA with the first application. However, whilst this second application is an improvement, it fails to respond to the majority of the concerns and overall, there is no change to the Council's stated position that the issues with the layout, design and scale aspects of the scheme together suggest that a scheme of 89 homes in total may not be appropriate (noting that the outline permission was for "up to 89"). Despite the significant benefits of this development, the adverse impacts of granting permission would currently significantly and demonstrably outweigh the benefits.

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.

COMPLIANCE WITH SECTION 106 DETAILS

The submitted Planning Statement includes a "Statement of Conformity with S106" which sets out that there are no conflicts between the reserved matters submission and the s106 agreement. However, on careful review of the s106 agreement it is noted that section 1.3 of the Second Schedule, Part 1, states "To ensure that all the Affordable Housing Units are built "tenure blind" in respect of external design and features so that they are broadly materially indistinguishable from the Market Housing". Given the flatted building is entirely within the affordable housing tenure and that all of the affordable dwellings are house types not found in the market tenure, it is clear that there is conflict with this stipulation.

CIL DETAILS

The site is in CIL Zone 3 and is liable for CIL. The amount has not yet been calculated but 25% of the total will be allocated to the Parish Council.

RECOMMENDATION

REFUSE

- 1 By reference to the clustering of affordable housing along the southern edge of the site, the failure to ensure a sufficient off-set distance between important offsite trees and plots 38-46, the failure to provide an appropriate location/amount/detail/standard of play areas and useable public open spaces, the failure to properly accommodate tree planting within the layout, the failure to provide a sufficient distribution of accessible parking provision, the failure to ensure all dwellings have a sufficient depth of rear garden, the failure to provide the flatted building with sufficient communal space, the failure to ensure sufficient interface distances between new dwellings, the proposed market mix being skewed in favour of larger dwellings, the failure to create distinctive character areas within the development; and having regard to the inappropriate scale of the flatted building in relation to the streetscene & the character of the area, the proposal does not achieve a high standard of design quality or amenity and represents an overdevelopment of the site in conflict with Arun Local Plan policies OSR DM1, D SP1, D DM1, ENV DM4, H DM1, T DM1, QE SP1; Aldingbourne Neighbourhood Development Plan policies H3, H4, H8, EH6, GA3, Arun's "Open Space, Playing Pitches, Indoor and Built Sports Facilities" SPD, the Arun Design Guide SPD, the Arun Parking Standards SPD, and the NPPF.
- 2 Insufficient information has been submitted to show that the proposed number of units, the landscaping, and the layout are implementable without detrimentally impacting surface water drainage on and off the site. The submitted Drainage Statement does not meet the stated design requirements. The proposal conflicts with Arun Local Plan policy W DM3, ANDP policy EH5, West Sussex Surface Water Design Guidance, the NPPF and the associated Planning Practice Guidance on Flood Risk.
- 3 INFORMATIVE: Section 1.3 of the Second Schedule, Part 1, states "To ensure that all the Affordable Housing Units are built "tenure blind" in respect of external design and features so that they are broadly materially indistinguishable from the Market Housing". Given the flatted building is entirely within the affordable housing tenure and that all of the affordable dwellings are house types not found in the market tenure, there is conflict with this stipulation and it may therefore, be necessary to seek a Deed of Variation Agreement if the current scheme is pursued.
- 4 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by

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.