Recommendation Report for Planning Permission

REF NO: AL/26/24/PL

LOCATION: Land West of St John's Close
Woodgate
PO20 3TH

PROPOSAL: Construction of 9 No. residential dwellings (resubmission of AL/132/23/PL). This application is in CIL Zone 2 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The 9 dwellings comprise a mix of semi and detached dwellings, all two storeys and with gabled, full hipped and half hipped roofs. The mix is 4 x 2 bedrooms, 3 x 3 bedrooms, and 2 x 4 bedrooms. Houses have at least two parking spaces, but the larger 4 bed dwellings have three and a garage. The layout includes communal planted areas including Biodiversity Net Gain (BNG) land. Access will be from St Johns Close and requires the removal of the fencing at the western end of the cul-de-sac. Access will be a simple continuation of the existing road (5m wide), to form a vehicular crossover from the St Johns Close turning head.
SITE AREA	0.34 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 26 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	There are a number of trees on or adjacent to the site boundaries. These include 15 categorised as moderate quality (class B). A Pedunculate Oak on the western boundary is protected by a Tree Preservation Order. The application proposes to fell one class B tree and 9 class C trees.
BOUNDARY TREATMENT	Mix of close boarded fencing and temporary heras fencing.
SITE CHARACTERISTICS	Former garden (previously associated with "Woodland" on Hook Lane) and scrubland. A ditch crosses the northern part of the site. The site is landlocked to vehicular traffic and is bordered by St Johns Close (eastern boundary), Autumn Gate (western boundary) and four dwellings on Hook Lane (southern boundary). To the north is a drainage pond and pumping station associated with a modern housing development.
CHARACTER OF LOCALITY	Residential area in the settlement boundary. St Johns Close to the east and Autumn Gate to the west are cul-de-sacs of detached and semi-detached two storey dwellings. The four dwellings to the south are detached but single storey in height.

RELEVANT SITE HISTORY

AL/132/23/PL	Construction of 9 No residential dwellings (resubmission following AL/40/23/PL). This application is in CIL Zone 2 and is CIL Liable as new dwellings.	Refused 19-01-24
AL/64/20/PL	Demolition of the existing dwelling & construction of 2 no. 2-bed. 3 no. 3-bed, 4 no. 4-bed houses including access, landscaping & associated works (resubmission following AL/27/20/PL).	ApproveConditionally 25-11-20

Following the withdrawal of AL/40/23/PL, AL/132/23/PL was submitted but then refused under delegated powers in January 2024. The refusal reasons are discussed in the conclusions section. AL/64/20/PL granted permission for the 9 houses at Autumn Gate to the west.

REPRESENTATIONS

Aldingbourne Parish Council object for the following reasons:

- Overdevelopment.
- Fails to integrate with existing development.
- Offsite flooding due to the proposal to pump surface water to a culverted watercourse on Hook Lane.
- Inadequate foul sewage capacity in the area (need a condition to prevent occupation until the Lidsey Wastewater Treatment Works has been upgraded).
- Harm to trees and hedgerows; and
- An archaeological investigation is required.

As of 19 August 2024, 86 letters of objection raising the following concerns:

- Insufficient local drainage capacity.
- Increase in flooding to the Primary School land/Hook Lane.
- ADC should have considered the remediation of the piped connection to the Hook Lane culverted watercourse long before this application.
- Increased traffic and associated risk of accidents on Hook Lane and St Johns Close, also in combination with other recent nearby developments.
- Access will not be wide enough and will disrupt adjacent properties.
- Loss of on-street parking for existing residents.
- St Johns Close is unsuitable for emergency vehicle access.
- No consideration of the traffic impact together with the new Co-op opening.
- Inadequate local infrastructure.
- The Primary School is already at capacity.
- Harm to archaeological deposits.
- Harm to a TPO Oak tree and other trees on the site.
- Impact on wildlife.
- No surveys for bats.
- Several trees have already been removed from the site.

- Overlooking of & loss of light to a lounge window on the western flank wall of 54 St Johns Close.
- Loss of views from existing homes;
- Harm to character.
- Overdevelopment.
- Plots 8 & 9 do not comply with Arun District Council Guidelines.
- The submitted CCTV surveys contradict themselves in that one said the Hook Lane system was not in good condition and a subsequent one said it needed jet washing through; and
- A decision needs to be made on the application.

COMMENTS ON REPRESENTATIONS RECEIVED:

Where objections relate to material planning considerations, they are addressed in the conclusions. The following responses are made to other comments:

- The council is only able to consider remediation of drainage on private land through a planning application concerning that land.
- It is not necessary to consider the Co-op's opening as there has previously been a shop at that site.
- The application, if approved, would be liable for the Community Infrastructure Levy (CIL) and this money could be used to pay for the requisite infrastructure requirements.
- A Bat activity survey has been submitted.
- The previous removal of trees is unfortunate, none of those felled were protected.
- The impacts of construction will temporary and will be managed by a condition.
- There is no right in planning to a view.
- The two CCTV surveys relate to different sections of the Hook Lane system (one up to St Johns Close and the other east of this) so they do not conflict with each other.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER - no objection subject to a standard pre-commencement foul drainage condition.

SOUTH DOWNS NATIONAL PARK - state no comments.

WSCC HIGHWAYS - no objection subject to conditions to secure vehicle parking and turning, cycle parking and a construction site setup plan. State:

- The access is in accordance with Manual for Streets.
- No existing highway safety issues with St Johns Close or its junction with Hook Lane.
- This is a sustainable location.
- No concerns with parking provision or the ability of refuse/emergency vehicles to enter/exit the layout.
- The traffic movement data is such that no further traffic/junction assessment reports are required; and
- This proposal would not have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network.

ADC ECOLOGY - initially requested additional information relating to BNG on the basis of the previous removal of trees. However, has since withdrawn this request on the basis that the application was submitted before the date BNG became statutory for small sites.

ADC DRAINAGE - no objection subject to conditions and a legal agreement to secure the off-site drainage works. State:

- The southern catchment relies on a connection of surface water to a culverted watercourse on Hook Lane.
- The receiving system on Hook Lane is not in good condition and without significant remediation works prior to connection, flood risk may be increased on Hook Lane; and
- Offsite works will be secured by legal agreement and must be completed prior to commencement.

ADC ENVIRONMENTAL HEALTH - no objection subject to conditions regarding construction management, hours of working (construction) and contamination.

ADC LANDSCAPE - no objection and state the landscape detail is acceptable such that there is no need for a condition to secure a landscape scheme.

ADC TREE OFFICER - no objection subject to conditions. States:

- Ideally, we should be in possession of an Arboricultural Impact Assessment & Method Statement along with a Tree Protection Plan at this detailed stage.
- The selection of largely native trees of potential stature (>10m ht.) and longevity will grow to enhance the local landscape and ultimately provide some compensation for the recent and substantial removal of trees from the site.
- The latest site plan provides an additional 1m crown clearance from dwelling (plot 6) so a marginal improvement. It is likely we will receive future tree work applications from those residents; and
- The layout excludes the existing root protection area from potentially harmful change of land use, giving the tree an opportunity to adapt to its new surroundings and hopefully thrive post-development.

COUNCILS ARCHAEOLOGIST - agrees with the conclusions of the Desk-Based Assessment Study with regard to the archaeological potential and states it would be appropriate for this to be evaluated by trial trenching, in advance of development. Recommends a condition to secure this.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. There is a difference of opinion between the construction site setup condition requested by WSCC Highways and the construction management plan (CMP) condition requested by Environmental Health. Noting the concerns of residents regarding construction disturbance and on-street parking, a CMP condition could be imposed and this would include a requirement to provide a site setup plan.

POLICY CONTEXT

Designations applicable to site:

- Built-Up Area Boundary.
- Within 12km of the Singleton and Cocking Tunnels Special Area of Conservation (SAC).
- Tree Preservation Order ref TPO/AL/1/20.
- CIL Zone 2.
- Area of Advert Special Control.
- Archaeological Notification Area.
- Current/Future Flood Zone 1.
- Risk of groundwater flooding; and
- Medium risk of surface water flooding (north eastern quarter of the site).

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitagation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HERDM6	HER DM6 Sites of Archaeological Interest
HWBSP1	HWB SP1 Health and Wellbeing
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

Aldingbourne Neighbourhood Plan 2019-31 Policy EH5	Surface water management
Aldingbourne Neighbourhood Plan 2016 POLICY EH6	Protection of trees and hedgerows
Aldingbourne Neighbourhood Plan 2016 POLICY GA3	Parking and new development
Aldingbourne Neighbourhood Plan 2016 POLICY H3	Housing density
Aldingbourne Neighbourhood Plan 2016 POLICY H6	Within built up area boundary Windfall sites
Aldingbourne Neighbourhood Plan 2016 POLICY H9	Items to consider e.g. - bin stores Attention to detail

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD12	Open Space,Playing Pitches & Indoor& Built Sports Facilities

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 complies with relevant Development Plan policies in that the site lies within the Built-up Area Boundary and the scheme does not result in any concerns relating to highway safety, residential amenity, character, trees, biodiversity or drainage. However, there is conflict with flood risk policy due to there being no sequential assessment.

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.

BIODIVERSITY NET GAIN

This application is not liable for statutory Biodiversity Net Gain (BNG) as the application was validated before 2 April 2024. Nevertheless, the application would deliver new on-site hedgerows, trees and grassland.

CONCLUSIONS

PLANNING HISTORY:

AL/132/23/PL was refused under delegated powers in January 2024 for the following reasons:

(1) The layout of the proposal would cause harm to a protected and retained tree, contrary to Arun Local Plan policies ENV SP1, ENV DM1, ENV DM5, the Arun Design Guide and the NPPF.

(2) In order to deal sufficiently with surface water, off site works are required. No legal agreement has been provided to secure this and therefore the proposal fails to secure adequate provision for surface water contrary to local plan policies W DM3 and ECC SP1, and the NPPF.

This resubmission responds to these issues by:

(1) Amending the layout to change plots 5/6 to a single plot (numbered 6) to increase the distance from the Root Protection Area (RPA) of the TPO tree. To counter the loss of the house, the layout shows that plots 3 & 4 will now be in a link detached arrangement which then creates room for plot 1 to become semi-detached (now plots 1 & 2).

(2) Confirming agreement to a s106 legal agreement to secure the offsite drainage remediation works.

On this basis (and noting consultation responses), the first refusal reason has been overcome. However, the second refusal reason is dependent on a legal agreement being secured.

PRINCIPLE OF RESIDENTIAL DEVELOPMENT:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site in the Built-Up Area Boundary (BUAB) in both the Arun Local Plan (ALP) and the Aldingbourne Neighbourhood Development Plan (ANDP) and is acceptable in principle subject to consideration of other relevant policies.

ANDP policy H6 states permission will be granted for residential developments on infill and redevelopment sites in the BUAB subject to five conditions being met. These are analysed elsewhere in this report, but it is concluded the proposal complies with this policy.

The NPPF gives a presumption in favour of sustainable development and generally seeks to promote the effective use of all land. Paragraph 124 (d) states planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting. Paragraph 11(c) states that development proposals that accord with an up-to-date development plan should be approved without delay.

The Council cannot currently demonstrate 5-years Housing Land Supply (HLS). The latest data shows the HLS has risen to 4.17 years (up from 2.36). The proposal will make a positive contribution to this shortfall and does so by locating dwellings in a sustainable settlement location.

FLOODING & SURFACE WATER DRAINAGE:

The site is in Flood Zone 1 and so is at a very low risk of flooding from rivers or seas. However, it is also noted that there is a 1:1000-year risk of surface water flooding affecting the north-eastern quarter of the site (roughly corresponding with the siting of plots 6, 7, 8 & 9). Whilst this is a lower risk than 1:30 or 1:100-year surface water flooding, it is not 'low risk' as that would apply to areas of land not shown as being at any level of risk (i.e. as per EA Flood Zone 1).

In addition, the council's Strategic Flood Risk Assessment (2016) includes mapping showing 'Areas Susceptible to Groundwater Flooding'. This divides the district up into 1km grid squares and the data then shows the proportion of each square, where geological and hydrogeological conditions indicate that groundwater might emerge. This mapping does not purport to show the likelihood of groundwater flooding occurring, but it does indicate which areas may potentially be at risk from groundwater flooding. The site is shown within a 1km square where over 75% of the area is at risk.

The applicant has supplied data that shows groundwater depths in three site locations on 5 different occasions between December 2021 and April 2022. The lowest depth in each of the three locations was 0.55m, 0.39m and 0.59m, respectively. It is noted that owing to this data, engineers have determined that infiltration of surface water runoff to soakaways would not be possible (hence why water will be drained to off-site ditches).

ALP policy W DM2 refers to flood risk, the sequential/exception tests and mitigation measures. Policy ECC SP1 states development must be located & appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding. 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.

National Planning Practice Guidance (NPPG) states residential development in medium and high flood risk zones must be subject to the sequential test. The purpose of the sequential test (ST) is to ensure land use planning takes due regard of flood risks and ensures that areas at low or no risk of flooding are developed in preference to areas at higher risk.

Recent case law (Mead Realisations Limited v The SoS for DLUHC & Anor, EWHC 279 (Admin)) determined that the NPPG has the same legal status as the NPPF in that it should be treated as policy and not just guidance. Recent appeal decisions following this judgement determined that the ST applies to all sources of flooding including areas at risk of surface water flooding (planning inspectorate ref 3326187) and that this does not have to apply to the whole of the development site (ref 3329702). In addition, appeal ref 3283287 (received prior to the judgement) found the need for an ST in cases of groundwater flooding.

Due to the potential risk of groundwater and the risk of surface water flooding, the application should be subject to the ST. It is acknowledged that this risk has been prevalent throughout the history of applications for the site and therefore should have been included in the refusal of the previous application. To introduce this now could be seen to be unreasonable however, that is not a reason to waive planning policy.

In terms of drainage, Arun DC previously advised that infiltration could be ruled out as a means of surface water disposal due to the evidenced high groundwater levels, therefore no further ground investigations would be required. It has been agreed that surface water can be directed to existing surface water systems on Hook Lane (a culverted watercourse) and on the northern boundary (an existing ditch network).

The existing watercourse on Hook Lane has been surveyed and found to not be in a good condition. The pipe suffers root blockages and high silt density, plus sections of the pipe are flat or flow uphill. This may explain the comments by residents regarding surface water flooding on Hook Lane and the junction with the A29. The applicant has agreed to undertake remediation works to the Hook Lane watercourse and these will need to be secured by a s106 legal agreement as they are outside the application red edge.

The s106 agreement is also required to secure the new connection between the site and the watercourse (this will run down the western side of the dwellings known as Woodland). These off-site works will potentially be a benefit to the wider community by resolving an existing drainage issue. The discharge to the northern ditch will require a new headwall construction and general clearance of this ditch - these works will be agreed through the separate Ordinary Watercourse Consent (OWC) process.

Some residents objected regarding the potential for increased flooding of the Primary School playing fields to the northeast. The northern ditch flows to the east before turning north and skirting the western edge of the primary school site. It then turns east again and connects to a highway drain on the A29. Where it lies adjacent to the primary school, it is similarly an open ditch. No reports of flooding from this ditch have been raised with Arun DC and it is noted that the school are partly responsible (as a riparian owner) for the maintenance of the ditch where it borders their land. The proposed flows from the development will be a maximum of 2 litres per second across the whole site and this will have a

negligible impact on existing ditch flows.

The council's Drainage Engineers raise no objection to the principle of the drainage proposals subject to conditions and the afore mentioned s106 legal agreement. There is no conflict with the relevant drainage policies but with there being no sequential assessment, there is conflict with ALP policy W DM3.

FOUL DRAINAGE:

The site lies in the Lidsey Wastewater Treatment Catchment Area. ALP policy W DM1 states all development must demonstrate that adequate drainage capacity exists or can be provided as part of the development. Applications must be accompanied by a Drainage Impact Assessment (DIA) that takes account of both the individual and cumulative impact on foul water disposal, flood storage capacity and surface water drainage or flood flows within the Lidsey area. ANDP policy EH5 requires new development make appropriate provision for accommodating foul water arising from the development.

The application is not accompanied by a DIA and as with the previous applications, Southern Water have not objected. Whilst it is accepted that they initially objected to WA/111/23/PL (as per the Parish comments), they eventually advised no objection. On the grounds of no Southern Water objection, it would not be appropriate to determine a conflict with the relevant policies.

The condition requested by the Parish Council would not be reasonable as it could prevent the permission from being implemented (as this would depend on the Treatment Works being upgraded). A standard pre-commencement foul condition would be reasonable and proportional.

TRAFFIC & ROAD SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should 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.

ANDP policy GA2 states support will be given to proposals that improve walking & cycling routes whilst GA3 requires parking be provided to meet current standards. Policy H6 requires that infill sites create safe and accessible environments that offer good access via a range of transport modes.

Para 114 of the NPPF states: "In assessing ... specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Para 115 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."

Residents' concerns with highway safety are noted but it is material that the NPPF places a high threshold on the level of impact that would be unacceptable. In practice, this means that it is very difficult to sustain a highway related refusal at appeal, particularly one concerning a localised impact.

The site will be accessed by way of a 5m wide connection to St Johns Close. This will be sufficient to ensure two-way traffic in and out of the site. The access and road layout has been tracked for both a refuse vehicle and fire tender. WSCC Highways have assessed the proposal and raise no objections.

The new access position will result in a change to the experiences of adjacent properties in terms of access and egress to their driveways and the ability to park on-street. The plans demonstrate driveways

will not be physically affected whilst it is clear from viewing St Johns Close that both 54 and 33 have sufficient off-street parking for 2 cars each. Turning heads at the end of cul-de-sacs are provided for the purposes of turning not for additional on-street parking. Residents state St Johns Close is not suitable for emergency vehicle access due to parked cars however, this is not a problem resulting from the proposal and if there was an emergency then parked cars would not prevent this from being dealt with.

The layout includes 21 allocated spaces (including 2 garages counted as 0.5 spaces each) and 2 additional visitor spaces. The requirement per the councils Parking Standards SPD is 20 allocated and 1.8 visitor so the layout is compliant with the standards. Each dwelling will be provided with cycle storage sheds and the details of this will be secured by a condition.

The Parking SPD states disabled space provision should be consistent with the guidance in "Manual for Streets". This states that 5% of all spaces should meet this requirement. This equates to a provision of 1.15 spaces and the layout provides for 1 such space (as a visitor space). All other parking spaces meet the Arun Design Guide (ADG) size requirement of 2.5m by 5m.

On the basis of the above, the proposal complies with ALP policy T SP1.

LAYOUT, DESIGN AND CHARACTER:

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. 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). Policy H6 requires that infill developments are appropriate to the size and character of the settlement, conserve or enhance built character and use land effectively & comprehensively.

The ADG suggests a density of 15-25 for detached/semi-detached houses in villages 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 26 dwellings per ha slightly exceeds this range but not sufficiently to warrant an objection, particularly considering the ADG is guidance not policy.

Generally speaking, the ADG states new development must ensure the character and sense of place of an area is respected and enhanced. This can allow for new design forms but only where these take cues from well-designed elements of the area. New development should generally reflect the scale of existing buildings and should avoid overshadowing of neighbouring properties. They should not detract from the character and appearance of the building and local area.

Part P deals with infill development and states, whether in rural contexts or urban environments, such development must aim to strike a balance between the benefits of more efficient and intense use of development land and preserving the character and local amenities of the site's context and respond appropriately to the building heights, scale and massing that characterise the existing street frontage.

The submission advises that the layout, plot sizing and spacing has been influenced by built form on St Johns Close. Trees and drainage have had a significant influence on the siting of dwellings to ensure Root Protection Areas (RPAs) and tree canopies are not comprised and rear garden areas are useable.

The area comprises a mix of building styles, with no overriding vernacular. The immediate context of St Johns Close and Hook Lane is characterised by single storey, chalet and two-storey properties with materials comprising of brick, render, weatherboarding, and tile hanging. The material palette comprises complimentary materials, namely facing brickwork and weatherboarding, with detailing such as red

dressing brickwork to window and door heads and cills. Additional variations in design such as Norfolk Dormers and different style porches add variation to the street scene. Roof styles and materials vary between properties. This is an appropriate response to the surrounding area and would result in a development that would accord with the prevalent character of the locality.

The access will appear as a natural continuation of St. John's Close, setting dwellings back in their plots. Plots 8 and 9 towards the North of the site are to respond to the (slightly offset) building line of the established dwellings along St. John's Close. Plots 1 to 5, which are found along the southern boundary, respond to the siting of 27 and 29 St. John's Close (which are themselves offset from 31/33).

The internal layout makes an efficient use of land whilst incorporating front gardens, open areas, and soft landscaping to break up the built form, giving it an appropriately spacious feel and resembling a natural continuation of St Johns Close.

The proposal complies with ALP policies D SP1 & D DM1 and with ANDP policies H3 & H6. With reference to ANDP policy H9, the submitted plans show details of bin stores, garden sheds, and guttering which is sufficient detail at this stage. Non-compliance with this policy would not be sufficiently harmful so as to justify a refusal reason.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. 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 ADG sets out the following guidance on interface distances between houses:

- Back-to-Back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property.
- Front to Front: min. 16m between habitable rooms of properties facing each other.
- There are no standards for either side to side or front to back.

The changes to the layout in respect of the TPO tree have increased the number of dwellings on the southern boundary from 4 to 5 and this has brought development (i.e. plot 1) closer to 33 St Johns Close than before. There is no impact on a 45-angle drawn from 33's main front windows. No. 33 also has a single storey side extension with front and side windows, but application AL/49/15/CLP confirms this extension serves a kitchen, so these are not principal windows. In any case, the only windows on the flank of plot 1 serve bathrooms and so will be obscure glazed.

The remainder of the scheme is as the previous determination but the interfaces between new and existing dwellings have been checked and they all meet the standards.

No 54 St Johns Close commented on the impact to their new flank lounge window which is stated to be a habitable window. It is recognised that lounge/living rooms are habitable rooms however the ADG does not contain any standards for the distance between the flanks of dwellings. No 54 also have a large opening on their rear elevation as the Building Control reference they have quoted includes removal of the patio doors and replacement with a new bi-fold door. Whilst the flank window does allow for greater light than their north facing rear window, it is not the principal habitable window. Plot 9 will be 5m away which is sufficient. Its ground floor windows will not give rise to overlooking as they will be screened by the boundary treatment. The first-floor bathroom window will be obscure glazed.

There is an application at appeal to site 5 dwellings on the land to the west (on the south side of Autumn Gate). This would include a new dwelling side on the shared boundary (and side on to plot 5). This new

dwelling would include a lounge bay window on its eastern flank however, this would be screened by the boundary treatment and so there would be no conflicts between principal windows on this site and the one being determined at appeal.

The proposal is therefore in accordance with the relevant policies.

QUALITY OF ACCOMMODATION:

ALP policy D DM2 states internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. The application demonstrates all dwellings meet or exceed required standards. The ADG requires rear gardens to be a minimum of 10.5m deep and front gardens at least 2m. The layout has been checked and all of the front/rear gardens meet the required standards. The standard of accommodation and private amenity space is in accordance with the relevant ALP policies and the ADG.

TREES & LANDSCAPE:

ALP policy D DM1 requires developments to incorporate new tree planting and to improve on character through landscaping. Policy ENV DM4 states TPO protected trees, those in ancient woodland, in a Conservation Area or trees that contribute to local amenity should not be damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. ANDP policy EH6 reflects the wording of ENV DM4.

The arboricultural information shows that although the woodland was cleared, there remain a number of trees and that many of these have moderate amenity value. The proposal seeks to remove many of the lesser quality trees but does result in the loss of 1 class B tree. This loss can be justified by the contribution that 9 dwellings will make to the council's HLS shortfall and replacement tree planting (18 trees) to which the councils Landscape Officer raises no concerns.

The revised layout ensures a better clearance to the TPO Oak tree and the council's Tree Officer has withdrawn his objections. The development is acceptable in terms of impact on trees and landscape, in accordance with ALP policies D DM1 and ENV DM4.

BIODIVERSITY:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. This application was received prior to the introduction of statutory Biodiversity Net Gain (BNG) and so there is no requirement for 10% BNG and instead the applicant needs only to demonstrate a net gain. ANDP policy EH6 requires that developments retain hedgerows, incorporate biodiversity in layouts and demonstrate BNG. Policy H6 requires infill developments conserve or enhance wildlife.

The submission includes a Preliminary Ecological Appraisal (PEA), and a reptile survey. The main conclusions are:

- No evidence of badger was found.
- The site has some, albeit limited, opportunities for reptiles and slow worms are known to be present in the area. A mitigation & enhancement strategy is recommended.
- The site does not support suitable habitats for water voles, or otters and is not considered to support dormice and great crested newts; and
- Additional ecological enhancements are recommended.

The council's Ecologist raises no objection. Conditions will be imposed to control lighting, ensure the reptile mitigation scheme is adhered to and require details of the other enhancements.

The site is in the 12km buffer of the Singleton & Cocking Tunnels Special Area of Conservation (SAC). ANDP policy EH12 2019 states applications must evaluate if there is a potential for the loss of suitable foraging habitat and/or the severance of commuting flight lines, such as in the form of mature treelines, hedgerows, and watercourses. Care must be taken through development design to ensure that retained features are not affected by artificial lighting. The ecological information advises:

- The site currently has low suitability for foraging and commuting bats.
- 5 bat species were recorded during the activity/automated surveys and activity across the site was low.
- No Barbastelles and Bechsteins were recorded during the transect surveys.
- As such, the site is not considered to be functionally linked to the off-site SAC.
- As bats are recorded using the site, most notably along the northern edge, it is recommended the flight lines along this northern edge are retained, buffered from light, and managed as a wildlife corridor (these trees are being retained).
- As the surrounding residential developments have been built out, the impacts to the Singleton and Cocking Tunnels SAC are negligible or acceptable alone and in combination with other projects in the local area; and
- The development will not have any direct or indirect impacts on Singleton and Cocking Tunnels SAC. The proposals will not reduce the natural range of the designated species, and their favourable conservation status will not be impacted.

Using this information, the council prepared a screening report as per the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). This follows the conclusions of the supporting documents and determines that there will be no likely significant effects on and no adverse effect on the integrity of the Singleton & Cocking Tunnels SAC. Given the lack of any impact on existing features and low bat activity, it is not necessary to seek Natural England comments on the screening report.

In respect of BNG, the application included a proposal to enhance an off-site woodland to achieve a net gain when considering the net loss concerned with the previous clearance of on-site woodland. As this application was registered prior to the introduction of statutory BNG, there is no requirement to take account of the previous site condition or to achieve a 10% net gain. The applicant confirms this part of the proposal is withdrawn. The application will provide tree and hedgerow units which achieve a net gain when compared to the current condition of the land and this satisfies relevant policies.

The development is acceptable in terms of the impact on biodiversity and is in accordance with the relevant policies.

ARCHAEOLOGY:

The site is in a designated archaeological notification area. ALP Policy HER DM6 states that where a site on which development is proposed has the potential to include heritage assets with archaeological interest, permission will only be granted where it can be demonstrated that development will not be harmful to the archaeological interest of these sites. The applicant has provided an Archaeological Desk Based Assessment Study which states that:

"It is considered that the archaeological potential for the site should not be regarded as sufficient to refuse any proposed development of the site, however, it is suggested that a programme of archaeological investigation of the proposed development site should take place post-determination as a condition attached to any granting of planning consent that may be forthcoming for this proposed

development."

The council's Archaeologist agrees with the report and request a condition to secure further investigation. On this basis, there is no conflict with ALP policy HER DM6.

CLIMATE CHANGE:

ALP policies ECC SP1 and SP2 requires all new residential and commercial development be energy efficient, designed to adapt to impacts arising from climate change, and incorporate decentralised, renewable, & low carbon energy supply systems. The application contains no information in respect of these policies, but this is acceptable as conditions can be used to secure compliance which would then ensure compliance with the relevant policies. Conditions will be imposed regarding water usage and electric vehicle charging.

SUMMARY:

The scheme has resolved the previous refusal reason relating to the impact on trees and will not result in any demonstrable harm to local character, the natural environment, highway safety, or residential amenity. However, the site is affected by flooding from ground and surface water sources and no sequential site assessment has been provided to demonstrate that this proposal could not be located somewhere else at a lower risk of flooding. In addition, at the current time, there is no legal agreement in place to cover the required off-site drainage works.

Paragraph 11(d) of the NPPF sets out the presumption in favour of sustainable development but states that this does not apply where application of policies in the NPPF that protect areas or assets of particular importance provides a clear
reason for refusing the development proposed. These areas/assets include areas at risk of flooding. On this basis, it is not possible to approve the application and it is therefore recommended that the application be refused for the following reasons.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

SECTION 106 DETAILS

An approval of this application would need to be granted with a s106 legal agreement to secure the offsite drainage works prior to commencement.

CIL DETAILS

This is a CIL Liable development. It is in Zone 2 and a CIL amount of £175,474.33 would be required if the application were to be approved and unless the applicant applies for an exemption subject to the requirements of the CIL Regulations 2010 (as amended). A proportion (25%) of this would go to the Parish Council.

RECOMMENDATION

REFUSE

1 The proposal conflicts with Arun Local Plan policy W DM2, the NPPF and the associated NPPG in that the site is at risk of groundwater and surface water flooding and the application fails to provide sufficient information to satisfy the sequential test.

2 Part of the site layout will drain to an existing piped watercourse located on Hook Lane to the South. This necessitates crossing land outside of the application red edge and works are required to repair/remediate the watercourse before new flows can be accepted. These matters need to be secured by a s106 legal agreement and there is no such agreement in place at the present time therefore the proposal fails to secure adequate provision for surface water contrary to Arun Local Plan policy W DM3. the NPPF and the associated NPPG.

3 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.

4 If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.