

**Recommendation Report for Planning Permission**

**REF NO:** AL/95/13/

**LOCATION:** Land west of Oaktrees  
Fontwell Avenue  
Aldingbourne

**PROPOSAL:** Outline planning application for 3 no. detached houses with garaging - This is a Departure from the Development Plan

**SITE AND SURROUNDINGS**

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION      | This is an outline application for 3 no. detached houses with access & layout details only to be considered at this time. The indicative floor plans show that each dwelling includes a 4.2m wide integral garage and has 4 bedrooms and 3 bathrooms upstairs. The indicative elevations show the houses to be two storey detached buildings with part brick/part timber fascias and clay tiles to the roof. The layout drawing shows a driveway with parking to the front of each dwelling. The access is to be as existing but with improved visibility through the loss of some of the frontage trees. No details are shown with respect to boundary treatments or bin store provision. |
| SITE AREA                       | 0.60 hectares.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| RESIDENTIAL DEVELOPMENT DENSITY | 5 dwellings per hectare.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| TOPOGRAPHY                      | Predominantly flat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| TREES                           | There is a row of deciduous trees along the site frontage. These are not mature specimens and are not considered to be of high amenity value. There are further deciduous trees forming part of the boundary to the rear of Westfield House and a row of tall conifer trees along the rear boundary.                                                                                                                                                                                                                                                                                                                                                                                       |
| BOUNDARY TREATMENT              | <ul style="list-style-type: none"><li>* Low up to 1m high railing style fence to the site frontage;</li><li>* Part 1.8m close boarded fence/part ranch style fencing to the boundary with Oaktrees;</li><li>* Row of fir trees behind a part wire fence/part hedge to the rear of the site; and</li><li>* 1.6m high close boarded fence to Westfield House.</li></ul>                                                                                                                                                                                                                                                                                                                      |
| SITE CHARACTERISTICS            | This is a vacant field which is somewhat overgrown. There was a pile of conifer branches located in the centre of the site at the time of the visit. There is an existing field gate onto the A29 Fontwell Avenue and the site shares a dropped crossing with the neighbouring property, Westfield House.                                                                                                                                                                                                                                                                                                                                                                                  |

## CHARACTER OF LOCALITY

The site is outside of the settlement boundary but still predominantly residential as there are dwellings on both sides of the road. The site frontage falls within a 40mph zone and the start of the 30mph zone is adjacent to the western end of the site.

Westfield House is a two storey detached dwelling of a traditional style in brick and clay tile. It has no flank facing windows and has a conservatory on the rear adjacent to the shared boundary. Oaktrees on the other side is a 1.5 storey dwelling with its first floor accommodation within a Dutch hipped barn style roof. It has render to the lower floor, brick to the first floor flanks and a tile roof. It has flank facing windows at both ground and first floor (with the first floor window appearing to be a bedroom) and a row of roof lights on the rear. To the rear of the site, there is a vehicle scrapyard.

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| RELEVANT SITE HISTORY |
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|           |                                                                                                                           |                                                                                        |
|-----------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| AL/67/86  | Outline application for erection of vehicle crusher, machine store, tractor store, offices, workshop, dwelling and garage | Withdrawn<br>23-09-1987                                                                |
| AL/122/87 | Outline Application for six residential units                                                                             | Refused<br>21-01-1988 <i>Appealed</i><br><b>Appeal: Dismissed</b><br><b>10 10 1988</b> |
| AL/24/55  | Outline for agricultural worker's house                                                                                   | Approve<br>14-09-1955                                                                  |
| AL/22/63  | Outline for residential development                                                                                       | Refused<br>04-03-1964                                                                  |
| AL/9/67   | Outline for residential development                                                                                       | Refused<br>29-03-1967                                                                  |

Planning permission was refused (and appeal dismissed) for a scheme of 6 dwellings in 1987.

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| REPRESENTATIONS |
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**Representations received:**

Aldingbourne Parish Council

Aldingbourne Parish Council - The Parish Council has NO OBJECTION in principle but wishes to make the following comments for consideration.

1. The proposal is for 3no. detached houses with associated garaging. The dwellings are widely spaced to reflect the existing street scene and density of development on the west

side of Fontwell Avenue. The Parish Council believes that the site can be utilised more efficiently and is capable of offering a more diverse housing mix to meet local demand. The indicative street scene submitted as part of the application would suggest that the 3/4 bed dwellings could be moved closer together to give a more continuous built edge allowing a pair of smaller bed semi-detached properties at one end. Due to the proximity and activity of the nearby scrap yard and workshops directly behind the site, to the west, the provision for a single row of dwellings fronting Fontwell Avenue is considered appropriate.

2. The northern site access appears awkward with a sharp turn into the site and should be reviewed by the local highway authority. It is noted that the visibility splay at the site entrance will result in substantial removal of the existing vegetation/hedgerow along the frontage of Fontwell Avenue. It is considered that a suitable landscape scheme of native trees and hedgerow shrubs should be implemented in the land between the internal estate road and Fontwell Avenue to replace existing vegetation to be removed, provide appropriate screening and maintain a rural edge to Fontwell Avenue.

3. Consideration should be given to extend the footpath at the northern site entrance southward along Fontwell Avenue for the length of the site to provide greater potential for pedestrian access to local shops and services at Eastergate Square. It is acknowledged that the current grass verge is quite narrow, however as much of the existing vegetation will need to be removed due to the visibility splay there is potential to install a footpath and provide replacement planting further into the site.

4. We are aware that residents at nearby Collins Close have recently petitioned West Sussex County Council to install a SID on Fontwell Avenue, supported by Eastergate and Aldingbourne Parish Council to alert drivers to the speed limit. We consider that should the development proceed an appropriate contribution should be made for a SID device or similar to discourage speeding on Fontwell Avenue in discussion with the local highway authority.

One letter of objection has been received from Fairways, Fontwell Avenue with the comment as: "20-30 traffic moves per day into callers drive area already for 4 properties, it is on a blind bend, coming out of a 30mph limit, most vehicles go 40-50mph already. more traffic out onto fontwell ave will cause extra traffic hazard, already has a history of accidents. development is not objectable, just the access issue."

The Parish Council were re-consulted to advise them that a Flood Risk Assessment had been submitted but they declined to make any further comments.

**Comments on Representations received:**

Given that the site lies outside of the built up area boundary where policies normally serve to prevent new residential development, it is not considered that the local planning authority should be encouraging a greater amount of dwellings. In addition, the surrounding area is of a low density and regard should be had to the 1987 refusal of 6 dwellings on this site.

The access arrangements have been appraised by West Sussex County Council and they are happy with the proposed scheme. Furthermore, they have not raised the need for a SID on Fontwell Avenue. Regarding a new footpath, whilst this may of some benefit to the new residents and the existing neighbours, there is no existing footpath on this side of the road that this might link up with and ultimately, residents would still need to cross the road to access a continuous length of footpath.

Notwithstanding, the comments about the footpath and landscaping to the site frontage would be incorporated into an informative should the recommendation be to approve.

## CONSULTATIONS

WSCC Strategic Planning  
Southern Water Planning  
Environment Agency  
Environmental Health  
Engineering Services Manager  
Engineers (Fluvial Flooding)

### Consultations responses received:

Southern Water - no objection. Require an easement either side of the public sewer as located between the site boundary and the A29. Also note that no surface water drains are located nearby to serve the development. They request the imposition of an informative regarding connection to the foul sewer.

Environment Agency - The site is located in Flood Zone 2 defined as having a medium probability of flooding. Please note that as the site is less than 1 hectare in size this proposal falls under our Flood Risk Standing Advice (<http://www.environment-agency.gov.uk/research/planning/82584.aspx>).

WSCC Highways - Initially WSCC had also requested to see the full ATC traffic count/speed data information. Having now reviewed this, they state their support subject to conditions on securing the access, visibility splays, parking and turning and cycle parking. Note that each dwelling proposes 2 garage spaces as well as driveway parking and that this meets the minimum standards for a development of this size in this area.

ADC Environmental Health - Please apply conditions ENV3, 5 and 6 to any approval, due to the site being located adjacent to a scrap yard. There is potential for the proposed residential development to be adversely affected by noise, both from the existing scrap yard at the rear and from the adjacent A259. An appropriate noise report detailing mitigation measures should be provided to inform any detailed application.

ADC Drainage Engineers - A SuDS system (Sustainable Urban Drainage System) must be investigated for surface water disposal, i.e. soakage structures. Soakaways/SuDS have been specified on the application form but no detailed information has been provided in terms of a surface water disposal scheme. Please apply standard conditions ENGD2A.

### Comments on Consultation responses:

Comments noted. The outcome of the EA Standing advice was that a Flood Risk Assessment is required. The relevant conditions will be attached should the recommendation be to approve.

## POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;  
Special Control of Adverts;  
Flood Zone 2; and  
Class A Road.

### DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: [GEN3](#)  
[GEN5](#)  
[GEN7](#)

Protection of the Countryside  
Provision of New Residential Development  
The Form of New Development

|                                                                                                                                                                                               |                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">GEN9</a><br><a href="#">GEN11</a><br><a href="#">GEN12</a><br><a href="#">DEV17</a>                                                                                               | Foul and Surface Water Drainage                                                                                                                                                                                                                |
|                                                                                                                                                                                               | Inland Flooding                                                                                                                                                                                                                                |
|                                                                                                                                                                                               | Parking in New Development                                                                                                                                                                                                                     |
|                                                                                                                                                                                               | Affordable Housing                                                                                                                                                                                                                             |
| Publication Version of the<br>Local Plan - Excluding the<br>Spatial Portrait, Employment,<br>Housing Allocations,<br>Transport, Monitoring and<br>Implementation sections<br>(February 2014): | C SP1 Countryside<br>D DM1 Aspects of Form and Quality<br>D DM2 Internal Space Standards<br>D SP1 Design<br>D DM3 External Space Standards<br>ENV DM4 Protection of Trees<br>H DM1 Housing Mix<br>W DM2 Flood Risk<br>H SP2 Affordable Housing |

## **PLANNING POLICY GUIDANCE**

NPPF                      National Planning Policy Framework

## **SUPPLEMENTARY POLICY GUIDANCE**

XXX6                      Interim Affordable Housing Policy

## **POLICY COMMENTARY**

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- ? the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- ? the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- ? the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

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

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

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

The proposal is not considered to comply with relevant Development Plan policies in that whilst it would have no materially adverse effect on the visual amenities of the locality, on the residential amenities of the adjoining properties or on the established character of the surrounding area, it would not comply with policies GEN2 and GEN3 regarding the protection of the countryside.

#### **OTHER MATERIAL CONSIDERATIONS**

There is an important material consideration to consider here with regard to the principle of development in this countryside location. This is discussed below under the Principle section of the Conclusions.

#### **CONCLUSIONS**

##### **THE PROPOSAL**

This is an outline application for 3 no. 4 bedroom detached houses with access & layout details only to be considered at this time. Parking is to be provided by an integral twin garage and driveway parking to the front.

##### **PRINCIPLE**

The National Planning Policy Framework (NPPF)

The NPPF was published in March 2012. One of the aims is to significantly boost the supply of housing. This framework is the most recently adopted national policy and is an important material consideration in this application.

Paragraph 14 confirms that, at the heart of the guidance is a Presumption in Favour of Sustainable Development. This is in accordance with the three dimensional approach to include economic, social and environmental considerations as set out in paragraph 7. For decision-taking, this presumption in favour means that planning applications that comply with the development plan must be approved without delay. Secondly, where the development plan is

absent, silent or out of date, planning permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole; or specific policies in this framework indicated development should be restricted".

Paragraph 47 sets out that Local Planning Authorities should use their evidence base to ensure their Local Plans meet the objectively assessed needs for market and affordable housing as well as identifying sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% buffer to ensure choice and competition in land marketing. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of housing sites. These 'relevant policies' are contained within the 2003 Local Plan (GEN2, GEN3 and GEN5).

Paragraph 215 of the NPPF ensures that the Arun District Local Plan 2003 carries weight as a development plan document and due weight can be given to the plan according to the level of consistency with the NPPF and the various policies within the Framework. The weight of the Local Plan policies can be assessed according to their level of consistency of the relevant policies within the National Planning Policy Framework.

#### Development Plan - 2003 Local Plan

The 2003 Local Plan Proposals Map identifies that the application site is located outside of the existing built-up area of Westergate. As such, saved policies GEN2 and GEN3 are relevant.

Saved policies GEN2 and GEN3 seek to focus development within the built-up areas, and safeguard the land outside the built up areas (referred to as the countryside for policy purposes). The built up area boundaries were drawn for the purposes of defining the transition between built up areas and countryside having regard to the need to identify within the built up areas (or on allocated sites) the required number of dwellings for the plan period (up to 2011).

These policies and boundaries should be accorded significantly less weight if the Council is unable to demonstrate that it is able to make adequate provision for housing post 2011. This has been reflected in a number of recent appeal decisions. For example, whilst the principles of GEN3 (protection of the countryside) are timeless, the Inspector for the Grenyers Field (Ferring) proposals (December 2012) concluded that these policies (GEN2 & 3) were in conflict with the NPPF as they have not been adjusted to take account of changing housing requirements.

#### Housing Land Supply

The Council has published a statement in November 2013 that concludes that the District has demonstrated that it has an adequate housing land supply in accordance with the requirements of the NPPF at that time, including the requirement to provide a 5% buffer. The conclusions of this document are that our supply is currently 5.3 years based on the requirement to provide housing in accordance with the requirements of the emerging Local Plan (whilst Full Council have not approved a Local plan, they have approved the housing requirements for the District).

The NPPF requires the Council to demonstrate a 5 year land supply plus a 5% buffer. Therefore,

based on a requirement to show 105% supply, the Council's relative position is 5.05 years (or 101%) housing land supply.

The Council can currently demonstrate an adequate housing land supply (albeit very marginally) in accordance with the requirements of the NPPF. Therefore, in accordance with paragraph 49 of the NPPF, housing policies within the development plan could be considered up to date. However, in the case of Arun, housing policies within the development plan date back to 2003 and were relevant for the period 2001 - 2011. Even with an adequate supply of housing land, and in the absence of the Council having an agreed housing strategy for post 2011, those housing policies that relate to the delivery of future housing cannot therefore be considered to be up to date.

The ability to demonstrate an adequate housing land supply does not affect the weight to be afforded to any relevant policies within the development plan or remove the requirement for there to be a presumption in favour of sustainable development within the NPPF. However, it does mean that there is less pressure on the Council to permit schemes on unallocated sites if there is significant and demonstrable harm.

However, having a demonstrably adequate housing land supply is only one material consideration to be weighing up in determining whether there is 'significant and demonstrable harm' alongside all other considerations (e.g. highways, landscape, ecology, design etc.) associated with individual proposals. Refusal of proposals solely on the basis of having a demonstrable adequate supply of housing is not significant or demonstrable harm and could not be sustained.

#### Emerging Local Plan

The Council has now agreed to publish a pre-submission draft Local Plan. The Government has recently published its National Planning Policy Guidance and this provides guidance on prematurity (this guidance is itself subject to consultation and has yet to be confirmed). It states that a refusal of planning permission on the grounds of prematurity will only be justified in exceptional circumstances where the development is so substantial that it would undermine the plan making process and the emerging plan is at an advanced stage. As this development only seeks 3 dwellings and is not substantial, prematurity as an issue would clearly not apply in this instance.

#### DENSITY & CHARACTER

The density of the proposed scheme is only 5 dwellings per hectare and this is considered to be very low in comparison to typical urban densities of 30-50 dph. However, the plot sizes (in terms of depth, width & gaps to boundaries) are all considered to be broadly in character with the dwellings located to the north of the site - and it is clear that the layout has been designed to replicate those dwellings to the north. It is considered that this is an appropriate density in the context of a rural area where development would not normally be allowed but where a special case is being made having regard to the NPPF.

#### SUSTAINABILITY

The application site, whilst outside of the built up area boundary is considered to be in a sustainable location being close to public transport links and within walking distance of local

facilities and services. Furthermore, the site fronts onto the A29 - a main road route in the area and one which provides access to the A27 trunk road route to the North.

#### **RESIDENTIAL AMENITY**

The northernmost proposed dwelling is level with the rear of Westfield House and is therefore not considered to impact on a 45 degree angle drawn from the nearest rear ground floor window. The southernmost proposed dwelling does sit further back than the neighbour Oaktrees but not far enough back to impact on a 45 degree angle drawn from their rear windows. Furthermore, there is a sizeable gap to the boundary to both neighbouring properties which further reduces any loss of light impacts. There are not considered to be any overlooking impacts other than between the first floor flank bathroom window on the southernmost proposed dwelling and the first floor flank bedroom window on Oaktrees. However a planning condition to ensure that the bathroom window is obscure glazed and non-opening would prevent any overlooking or loss of privacy.

#### **NOISE**

Concerns have been raised by Environmental Health Officers regarding the potential for the new houses to be affected by noise from the A29 to the east and/or the scrapyard to the west. This is considered to be an important issue but not one that would prevent development. Instead, a planning condition would ensure that the new houses are built with measures that will minimise these noise impacts and protect future residents.

#### **HIGHWAYS & PARKING**

As is reported above, West Sussex County Council has not raised any objections to this scheme which utilises an existing access into the A29. Furthermore, they consider that the proposed level of parking is such that it meets their requirements. According to the West Sussex County Council Parking Demand Calculator, the demand for this scheme is 7 car parking spaces. The proposal includes garage parking for two cars per dwelling as well as sufficient driveway space for additional vehicles. There is therefore sufficient parking to meet the identified need.

#### **IMPACT ON TREES**

In order to create the necessary visibility splays, the developers will need to either remove or prune back significantly those trees currently located along the site frontage. The submitted streetscene photomontage drawing shows a hedge along the site frontage where currently there is a row of trees. The loss of these trees is regrettable but necessary in the interests of highway safety. The trees have been assessed on site and are not considered to warrant protection. The application will be required to provide replacement tree planting and landscaping and this would be dealt with at the reserved matters stage.

#### **SPACE STANDARDS**

The Councils emerging Local Plan contains policies regarding internal and external space standards. Whilst not yet adopted, these are considered to have some weight (as per the Policy Commentary above) and regard must be had to these policies at the present time.

With regard to Policy D DM2 "Internal Space Standards", the essential general internal floor area

given for a two storey 4 bedroom 5 person dwelling is 100m<sup>2</sup> and the proposed internal floorspace for each dwelling is 165.93 so the proposal clearly complies with (and far exceeds) the policy. With respect to external space standards, the amount of garden space is such that it far exceeds the standards given for a large detached dwelling. The proposal therefore complies with this policy.

## **FLOOD RISK**

The site is part located within Flood Zone 2 with the proposed houses falling within the designation but much of the rear gardens outside. Current Environment Agency standing advice requires that residential planning applications less than 1 hectare in size are accompanied by a Flood Risk Assessment (FRA). A Flood Risk Assessment has now been received. The key conclusions of this are:

- \* Only the western edge of the two southern houses would sit in Flood Zone 2, with Unit 1 at the northern edge of the site most likely completely within Flood Zone 1;
- \* Where the proposed houses fall within Flood Zone 1, the location is deemed appropriate for the proposed development and the Sequential Test is satisfied;
- \* Where the houses fall within Flood Zone 2, the location is deemed appropriate for the proposed development but the Sequential Test may not be satisfied if there are alternative sites available for the same development in Flood Zone 1 within the area;
- \* However, according to Arun District Council's Strategic Housing Land Availability Assessment Update 2012: "Broad Locations and Windfall" there are no windfall sites within the Aldingbourne area highlighted for this type of development;
- \* There is no requirement to apply the Exception Test;
- \* Lowest habitable room finished floor levels should be some 300 mm above the design flood level;
- \* A precautionary lowest finished floor level of +13.5 m OD has been recommended;
- \* The risks to occupiers in the event of a flood should not be severe as they should be safe within their houses and should have pedestrian access to areas in Flood Zone 1 directly outside their front doors; and
- \* Some surface water flood risk has been indicated as impinging on the south east corner of the site within the ADC SFRA. However, the local topography would indicate that any surface water at this location would run off in to Fontwell Avenue.

It is therefore considered that subject to a condition on the finished floor levels, there is no objection on the grounds of flood risk.

## **AFFORDABLE HOUSING**

An Interim Affordable Housing Policy was approved by Full Council on 18th August 2010. The policy states that the Interim policy is in accordance with the National Planning Policy Framework and for developments of 1-14 units an affordable housing provision of 15% will be sought district wide. Therefore as the proposal is for 3 units, a contribution of ?6,624 will be required for a contribution to off-site affordable housing provision. The applicant has provided a Section 106 agreement for this amount and this has now been signed and completed.

## **CONCLUSION**

The National Planning Policy Framework has at its core a 'presumption in favour of sustainable development' and where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless there are any adverse impacts that would significantly or demonstrably outweigh the benefits. These are factors that weigh heavily in favour of allowing development.

The Council has also recently published a document that seeks to demonstrate an adequate supply of housing for the next 5 year period. However, in the absence of a post 2011 housing strategy being in place for the district, housing policies are considered to be out of date and the presumption in favour of sustainable development that the NPPF requires is unaffected by whether or not there is a demonstrably adequate housing land supply.

In addition, all of the technical aspects of the scheme (which consider the impacts upon the highway network, residential amenity, trees, the site layout, flood risk etc.) are considered to be acceptable in principle. On this basis, it is recommended that this outline application be approved subject to the following conditions.

#### **HUMAN RIGHTS ACT**

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

Consideration has been specifically given to Article 8 (right to respect private and family life), 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**

This application is subject to a Section 106 legal agreement relating to the payment of ?6,624 towards off-site affordable housing provision.

#### **RECOMMENDATION**

**APPROVE CONDITIONALLY**

- 1 The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

- 2 The permission hereby granted is an outline permission under Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of this permission:-

- (a) Scale;
- (b) Appearance; and
- (c) Landscaping.

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

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

SITE LAYOUT PLAN 12435/02 A;  
STREET SCENE 12435/05;  
ELEVATIONS 12435/03;  
FLOOR PLANS 12435/03; and  
THE LOCATION PLAN.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7 of the Arun District Local Plan.

- 4 Development shall not begin until a scheme for protecting the proposed dwellings from noise from A29 road traffic and noise from the scrapyards to the West has been submitted and approved by the Local Planning Authority. Any works which form part of the scheme approved by the Authority shall be completed prior to the occupation of any of the dwellings. The noise protection measures shall be retained thereafter.

Reason: To safeguard the amenities of residents in accordance with Arun District Local Plan policies GEN7 and GEN32.

- 5 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1. A preliminary risk assessment which has identified:
  - \* all previous uses
  - \* potential contaminants associated with those uses

- \* a conceptual model of the site indicating sources, pathways and receptors
- \* potentially unacceptable risks arising from contamination at the site;

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun District Local Plan policies GEN7 and GEN31.

- 6 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun District Plan policies GEN7 and GEN31.

- 7 Prior to occupation of any part of the approved development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed in an appropriate standard in accordance with Arun District Local Plan policies GEN7 and GEN31.

- 8 The proposed buildings shall be built with a finished floor level of no lower than 13.5m above Ordnance Datum (AOD).

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with guidance contained within the National Planning Policy

Framework and in accordance with Arun District Council's Saved Policies GEN1, GEN3 and GEN11.

- 9 No development or new tree planting should be located within 3 metres either side of the centreline of a public sewer and all existing sewer infrastructure shall be protected during the course of construction works.

Reason: In the interests of protecting the existing public sewer and in accordance with Arun District Local Plan policy GEN9.

- 10 No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing Ref 12435/02 Rev A. The access shall be retained thereafter as per the approved details.

Reason: In the interests of road safety in accordance with Policy GEN7 of the Arun District Local Plan.

- 11 No part of the development shall be first occupied until visibility splays of 2.4m x 70m to the north and 2.4m x 59m to the south have been provided at the proposed site vehicular access onto the A29 Fontwell Avenue in accordance with the approved planning drawing Ref 12435/02 Rev A. Once provided, the splays shall thereafter be maintained in perpetuity and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety in accordance with Policy GEN7 of the Arun District Local Plan.

- 12 No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved drawing Ref 12435/02 Rev A. The parking spaces and turning areas shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with Policy GEN7 of the Arun District Local Plan.

- 13 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and Policy GEN7 of the Arun District Local Plan.

- 14 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of the SUDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building shall be occupied until the complete surface water

drainage system serving the property has been implemented in accordance with the agreed details.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the flank walls of the new dwellings without the prior permission of the Local Planning Authority on an application in that behalf.

Reason: To protect the amenities of adjoining residential properties in accordance with policy GEN7 of the Arun District Local Plan.

- 16 The first floor bathroom window on the southwest facing flank wall of the dwelling closest to Oaktrees shall at all times be glazed with obscured glass and fixed to be permanently non-opening.

Reason: To protect the amenities and privacy of the adjacent property, Oaktrees particularly in respect of its northeast facing first floor flank bedroom window in accordance with policy GEN7 of the Arun District Local Plan.

- 17 Details for the storage of domestic rubbish and recycling within the individual plots shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: To protect the amenities of nearby residents in accordance with Arun District Local Plan policy GEN7.

- 18 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 19 INFORMATIVE: The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the works within the public highway. The applicant is requested to contact The Implementation Team Leader, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ. (Tel no. 01243 642105).

- 20 INFORMATIVE: The applicant should note the Parish Councils comments with respect to a future reserved matters submission, as follows:

(1) It is noted that the visibility splay at the site entrance will result in substantial removal of the existing vegetation/hedgerow along the frontage of Fontwell Avenue. It is considered that a suitable landscape scheme of native trees and hedgerow shrubs should be implemented in the land between the internal estate road and Fontwell Avenue to replace existing vegetation to be removed, provide appropriate screening and maintain

a rural edge to Fontwell Avenue; and

(2) Consideration should be given to extend the footpath at the northern site entrance southward along Fontwell Avenue for the length of the site to provide greater potential for pedestrian access to local shops and services at Eastergate Square. It is acknowledged that the current grass verge is quite narrow, however as much of the existing vegetation will need to be removed due to the visibility splay there is potential to install a footpath and provide replacement planting further into the site.

- 21      INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel 033 0303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
- 22      INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE 365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 30% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers. Supplementary guidance notes are available for information. Any discharge of surface water/treated effluent to the watercourse must be restricted to greenfield runoff rates. The flow from the package treatment plant should be estimated from ALL properties connecting into it. The Environment Agency should be consulted as they would have to permit the discharge of treated effluent. The ditch systems must be maintained and the upgraded culvert at the access will require consent from us. Detailed design of the culvert should be provided.
- 23      INFORMATIVE: This decision has been granted in conjunction with a Section 106 legal agreement relating to the payment of ?6,624 towards off-site affordable housing provision.