

Recommendation Report for Planning Permission

REF NO: BE/100/19/PL

LOCATION: Springfields
Chichester Road
Bersted
PO21 5EE

PROPOSAL: 2 No. dwellings. This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS	
DESCRIPTION OF APPLICATION	The application proposes the erection of 2 no. dwellings.
SITE AREA	0.3 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	To the south western boundary (A259) there is low lying vegetation which bounds the site. The height of this vegetation comprises approximately 0.6 - 1m and permits wider views across the countryside towards the South Downs to the north east. The north western and north eastern boundaries also comprise low lying vegetation of a similar height; although its distance from the A259 allows the open character of the countryside to be appreciated from along the A259 and adjacent to the Bognor to Littlehampton cycle path. The south eastern boundary of the site comprises a post and rail timber fence which denotes the physical and functional boundary from the adjacent site. This boundary is open in nature and reinforces the wider open character of this countryside location.
SITE CHARACTERISTICS	The application site comprises a parcel of land located in the open countryside. The site comprises mown grass with a combination of post and rail fencing and low lying boundary treatments. The use of the land is known to be in agricultural use. The land to the south east of the application site forms part of a separate planning unit and benefits from an extant residential consent (BE/51/19/PL).
CHARACTER OF LOCALITY	The application site falls within the strategic gap between Chichester and Bognor Regis. The site falls within a countryside location which is open and exposed to its north eastern and south western extents. Views across the site towards the South Downs National Park are apparent from along both the A259 and the according Bognor Regis to Littlehampton Cycle Path. This reiterates its functional character as an open site. Vegetation surrounding the site is

both low lying and natural which further emphasises the open character of this part of the countryside and its role in permitting long ranging and wide views.

To the south east of the site is a ribbon of development; however, these properties are situated behind existing established TPO tree belt. The buildings appear well established within their footprints and form the reduction in built up development from Bognor Regis/Bersted towards the open countryside.

The wider area falls within Character SC9 of the Landscape Character Assessment of West Sussex (November 2003). It defines the key characteristics of this area comprising low lying flat open countryside, a low density of hedgerows and hedgerow trees with occasional setbacks and long views to Arundel, the Downs and to the distinctive spire of Chichester Cathedral.'

RELEVANT SITE HISTORY

BE/51/18/PL	1 No. dwelling. This application is a Departure from the Development Plan.	App Cond with S106 07-09-18
BE/113/18/PL	Application for removal of a condition following grant of planning permission BE/19/61/A relating to condition no.2 - agricultural worker occupancy	Approve 28-03-19

Planning permission was granted on the site to the east under permission BE/51/19/PL. The application approved comprised '1 no. dwelling.'

The Officer's report that accompanied the application forms the rationale as to why the development was considered acceptable. On this date of the decision Arun District Council was able to demonstrate an adequate 5 year Housing Land Supply. Therefore, the determination was undertaken in accordance with the Policies in the Development Plan.

Page 1 of the the Officer's report noted that 'the site itself is mown grass land and there is currently a single width holiday caravan present.'

Page 6 of the Officer's report noted that 'the site is sustainably located given that there is a petrol station shop within a walk (using pavement/hard surfaced footpaths) of only 685m and bus stops (using the same surfaces) within 235 or 278m. The proposal would result in an increase in Council Tax receipts, a new homes bonus payment to the Council and will necessitate the employment of persons to build the dwelling. Therefore, it will result in some small scale economic benefits.' The economic benefits associated with the benefits were considered by the Officer to be small-scale. Such small-scale benefits were able to outweigh the small-scale level of harm.

Page 6 of the Officer's report stated that the proposal remained in conflict with ALP policy C SP1 and BNDP policy ES7. 'However, it is not considered that this should automatically result in a refusal unless there is also harm to the character of the countryside'. It was deemed that the proposal would not harm the character of the countryside. Therefore, only small-scale benefits were required to outweigh the limited harm.

Page 7 of the Officer's report assessed the level of harm. It details that 'as the addition of one dwelling in this location on the end of an existing ribbon development and closely related to the existing adjacent dwelling will not undermine the integrity of the gap and it will still be clear that there is a separation between Bognor Regis and Chichester'. For these factors, the development had a low level of harm to the character of the countryside. Balanced against the small scale benefits, the development was found to be acceptable.

However, for the reasons assessed in further detail below, the level of harm associated with this development is of greater significance. This is due to the difference in site specific factors of this proposed scheme.

The level of harm was further mitigated by the the site comprising 'a very small area of land (0.1381 hectares)'. Owing to this site's more prominent location, and larger size, the level of harm on the established character of the countryside is therefore greater than the 2019 permission.

Page 9 of the Officer's Report found that 'although the dwelling will encroach onto a currently open unscreened area of countryside, it is not considered that this will be harmful to the character of the local landscape'. However, this was balanced against the fact 'there will still be views from the road and footpath of the flat landscape beyond through the adjacent land to the northwest and through the gap between the two dwellings. It will be necessary to seek new landscaping around the front of the site to soften the appearance and this can be secured through a planning condition.'

In contrast, the below assessment has found that the proposed development would erode the views from the road and footpath of the flat landscape. This is appreciable from the low lying vegetation along this stretch of the A259. Views of the South Downs to the north would be eroded by the additional built development. This was not the case with application BE/51/19/PL.

Whilst softening acceptable development through the provision of landscaping is appropriate, landscaping should not be used to conceal development that is harmful by default; particularly given that landscaping can only be secured for the period of 5 years by way of condition.

The Officer's Report found that the ability to retain views of the flat landscape was symbiotic of the limited level of harm. This led to the development being considered acceptable in this countryside location.

Page 12 of the Officer's Report made clear that 'it is not sustainable to refuse an application on the grounds of countryside or strategic gap location unless there is some corresponding harm to the proposal'. The level of harm associated with the proposal was minimal, given the open character of the countryside would not be harmed. It followed that the benefits required to outweigh the harm only needed to be minimal.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bersted Parish Council

No objection.

THIRD PARTY PUBLIC COMMENTS

None received.

COMMENTS ON REPRESENTATIONS RECEIVED:

N/A

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Natural England

Archaeology Advisor

Arboriculturist

Parks and Landscapes

WSCC Strategic Planning

Ecology Advisor

Environmental Health

Scotia Gas Networks

CONSULTATION RESPONSES RECEIVED:

WEST SUSSEX COUNTY COUNCIL HIGHWAYS

- Cannot determine whether the applicant owns the visibility splays and cannot ensure these could be secured by condition
- Further information required from the applicant to demonstrate vehicle crossover dimensions on a scaled plan
- On-site turning cannot be demonstrated
- No cycle parking shown on the plans
- The LHA are not in a position to provide a formal recommendation on this application.

NATURAL ENGLAND

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

ARUN DISTRICT COUNCIL ENVIRONMENT OFFICER

Due to the size and location of the development we would recommend that an extended phase one habitat survey is undertaken. Lighting scheme will need to take into account presence of bats in the local area. Works to trees or vegetation clearance should be undertaken outside of bird breeding season. Full enhancements detailed in consultation response on file.

ARUN DISTRICT COUNCIL SURFACE WATER DRAINAGE

If you are minded to approve the application please apply the following conditions to ensure that the development is adequately drained and does not increase flood risk elsewhere. (N.B. Please see full consultation response for recommended conditions).

ARUN DISTRICT COUNCIL ENVIRONMENTAL HEALTH OFFICER

The area is highlighted on the DEFRA Road Noise Maps as being an area affected by road noise at levels between 55 and 65dB at night and 65 and 69dB during the day. These levels are significantly different to those quoted in the submitted noise assessment which does not appear to have been compiled by a competent acoustician or the levels measured at site and is not sufficient to allay my concerns about road noise.

ARUN DISTRICT COUNCIL ARCHAEOLOGY ADVISOR

It is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal of the requirement of other mitigation measures would be justified.

SOUTHERN GAS NETWORKS

There is a high pressure pipeline in the vicinity of these proposed works. We have sent a copy of your correspondence to our local engineer who will be in contact separately. In the meantime, SGN formally object to this planning application until such a time as detailed consultation has taken place.

COMMENTS ON CONSULTATION RESPONSES:

SOUTHERN GAS NETWORKS - Formal procedures are present aside from the Planning process to address the objection raised by SGN.

WEST SUSSEX COUNTY COUNCIL - Following the response received from WSCC the applicant has not provided further details regarding land ownership of visibility splays, vehicle crossover arrangements, vehicle turning space on site or cycle parking provision. The applicant has requested that the LPA proceed with determination since the consultation response from WSCC on 24 October 2019.

POLICY CONTEXT

Designation applicable to site:

- Pagham Harbour Access Management Zone B
- Outside Built-Up Area Boundary
- Tree Preservation Order (TPO/BE/1/14)
- Archaeological Notification Areas
- WSCC Mineral Consultation Area
- CIL Charging Zone 3

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HSP1	HSP1 Housing allocation the housing requirement
QEDM2	QE DM2 Light pollution

QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP3	SD SP3 Gaps Between Settlements
SODM1	SO DM1 Soils
TSP1	T SP1 Transport and Development

Bersted Neighbourhood Plan 2014 Policy ES1	Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2	Surface water management
Bersted Neighbourhood Plan 2014 Policy ES3	Protecting the Strategic Gap/Green Infrastructure Corridor
Bersted Neighbourhood Plan 2014 Policy ES5	Building design
Bersted Neighbourhood Plan 2014 Policy ES6	Protection of trees
Bersted Neighbourhood Plan 2014 Policy ES7	Development outside of the Built Up Area Boundary
Bersted Neighbourhood Plan 2014 Policy HDQ2	Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ3	Windfall sites
Bersted Neighbourhood Plan 2014 Policy HDQ5	Design of new housing development
Bersted Neighbourhood Plan 2014 Policy HDQ6	Outdoor space
Bersted Neighbourhood Plan 2014 Policy HDQ7	Attention to detail
Bersted Neighbourhood Plan 2014 Policy HDQ8	Car parking

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and the Made Bersted Neighbourhood Development Plan.

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 fails to accord with policies contained within the Development Plan in respect of settlement boundaries, countryside location and strategic gaps.

OTHER MATERIAL CONSIDERATIONS

Arun District Council are unable to demonstrate a 5 year Housing Land Supply and therefore the policies

most relevant to the assessment of the development are considered out of date. It therefore follows that the NPPF is a material consideration of significant weight for the purposes of decision taking, under Section 38(6) of the Planning and Compulsory Purchase Act 2006 (as amended).

CONCLUSIONS

PRINCIPLE

The key policy considerations in the determination of this application are C SP1 of the Arun Local Plan (ALP). Policy C SP1 states that 'Outside the Built-Up Area Boundaries (as identified on the Policies Maps) land will be defined as countryside and will be recognised for its intrinsic character and beauty.'

The application site is situated outside the built up area boundary (BUAB) as specified by Policy SD SP2 which seeks to focus development within the built up area. Due to the site's location outside of the BUAB, development in this location would be in conflict with Policies C SP1 and SD SP2 of the Arun Local Plan. The key considerations in the determination of this application are policies C SP1 and SD SP2 of the Local Plan. However, owing to the Council's 5 year Housing Land Supply position these policies are out of date and therefore hold reduced weight.

Under footnote 7 and paragraph 11(d) of the National Planning Policy Framework (2019) Arun District Council are applying the presumption in favour of sustainable development for decision taking. Under paragraph 11(d) this means granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reasons for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

Footnote 6 of the NPPF makes clear that determination of applications under paragraph 11(d)(i) should only take place if they relate to habitat sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.

This application site does not relate to any of the protected areas identified within footnote 6 of the NPPF and therefore a determination under paragraph 11(d)(ii) follows.

Paragraph 11(d)(ii) makes clear that decisions should be taken in accordance with the policies in the Framework unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits. A full assessment of all matters and their significance are outlined in further detail below.

DESIGN/VISUAL AMENITY/COUNTRYSIDE CHARACTER

Paragraph SD SP3 of the Arun Local Plan states that generally the open and undeveloped nature of the Bognor Regis to Chichester gap between settlements, as identified on the Policies Maps, will be protected to prevent coalescence and retain their separate identity. Policy SD SP3 set out a 5 point criteria against which development in Settlement Gaps should be assessed. This criteria includes, but is not limited to; (a) not undermining the physical and/or visual separation of settlements; and (b) it would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development; (c) it cannot be located elsewhere; (d) if a subsequent DPD or Neighbourhood Plan deems it appropriate through an allocation.

Policy C SP1 of the Arun Local Plan states that outside Built-Up Area Boundaries (as identified on the

Policies Maps) land will be defined as countryside and will be recognised for its intrinsic character and beauty. It makes clear that the Council will take into account cumulative impact of development in the consideration of planning applications.

Policy ES1 of the Bersted Neighbourhood Development Plan requires new development which would have an effect on the appearance or character of the surrounding area should be of a high quality design and should contribute to local character by creating a sense of place appropriate to its location. Policy HDQ2 of the Bersted NPD requires proposals for new housing must ensure that the new homes are well connected to the surrounding area and visually integrated with their surroundings.

Paragraph 127(a) of the National Planning Policy Framework (NPPF) makes clear that planning decisions should ensure that developments (a) will function well and add to the overall quality of the area, not just for the short term but for the lifetime of the development.

Paragraph 127(c) of the NPPF states that planning policies and decisions should ensure that developments (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 130 of the NPPF makes clear that permission should be refused for development of design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 170(a) of the NPPF states that planning decisions should contribute to and enhance the local environment by (a) protecting and enhancing valued landscapes (in a manner commensurate with the statutory status or identified quality in the development plan).

Owing to the Council's 5 Year Housing Land Supply position, and the triggering of the tilted balance under paragraph 11(d) of the NPPF, the weight attributed to Policies C SP1 and SD SP3 (ALP) and Policy ES1 (NDP) is reduced. However, Policy SD SP3 (ALP) and Policy ES1 (NDP) are consistent with paragraphs 127, 130 and 170 of the NPPF; given its post-NPPF adoption date.

In assessing the weight to be given to paragraphs 127, 130 and 170 of the NPPF, the Landscape Character Assessment of West Sussex (November 2003) details how this aspect of the countryside should be maintained and developed; owing to its particular sensitivities. The site falls within the Chichester to Yapton Coastal Plan (Character Area SC9) which 'comprises a mainly flat, open landscape crossed by meandering rife. Dominated by highly productive arable fields and modern farm buildings, it has a fragmented hedgerow and hedgerow tree pattern'.

The SC9 Character Assessment goes on to state that buildings of strong suburban elements 'create visual confusion and poor definition between town and countryside, and erode the distinctive landscape character'. Acknowledging the sensitive character of the area, the management guideline states development should 'conserve the significant views to Chichester Cathedral and the South Downs'.

The underlying intent behind both NPPF, Local and Neighbourhood Development Plan policies are to maintain the character of the areas in a manner commensurate to its significance/sensitivity. In this instance, this countryside location is sensitive due to its function detailed in the Landscape Character Assessment. Therefore, paragraphs 127, 130 and 170 of the NPPF seek to protect an area of countryside that has significant sensitivity to change are given considerable weight.

The proposed development would result in 2 no. dwellings positioned on a site that is currently characterised by its open characteristics. These open characteristics add to the function of this countryside location which permit views to the north of the Downs. These views are sought to be retained under Character Assessment SC9 of the West Sussex LCA (2003).

To address the harm that derives from siting 2 no. dwellings in an open countryside location, the

applicant has sought to undertake extensive planting surrounding the site to enclose this area into the existing ribbon of development to the south east. However, this enclosure, and additional tree planting, would materially erode the sensitive view of the Downs to the north east. This open character was assessed as being unaffected in application BE/51/19/PL which meant limited harm resulted. However, the erosion of these features under this proposal means that significant and demonstrable harm would result to the character of the area.

This harm would be prominent from both vehicular, pedestrian and cycle traffic from along the A259 and Chichester to Littlehampton cycle route.

Whilst it is acknowledged that glimpses of these important views would still be appreciable from these public viewpoints, such views would be glimpses and not an open appreciation of the flat countryside/Downs. Given the importance and sensitivity of these views, allowing only glimpses of the countryside location and the Downs would not be commensurate with the importance of these views.

The development of 2 no. dwellings is only able to be undertaken by causing material harm to this sensitive countryside location. Such features are given significant weight under paragraphs 127, 130 and 170 of the National Planning Policy Framework.

Whilst change to this countryside location is not by default harmful in principle, owing to the tilted balance, the level of harm is increased due to the public visibility from the A259 including vehicular, pedestrian and cycle traffic and the loss of this important open character.

Taking into account the above factors, the development would fail to add to the overall quality of the area for the lifetime of the development; contrary to paragraph 127(a) of the NPPF. The development would fail to be sympathetic to the local character and landscape setting and would therefore be contrary to paragraph 127(c) of the NPPF. The development would fail to improve the character and quality of the area and its function which therefore triggers paragraph 130 of the NPPF, which makes clear that permission should be refused. Finally, the proposed development would neither contribute nor enhance the natural and local environment by protecting a valued landscape and is therefore contrary to paragraph 170 of the NPPF.

The development would also result in a development that fails to fulfil the requirements of criterias (a), (b), (c) and (d) of Policy SD SP3 of the Arun Local Plan and Policies ES1 and HDQ2 of the Bersted Neighbourhood Development Plan.

HIGHWAYS, ACCESS AND PARKING

Policy T SP1 of the Arun Local Plan requires development to incorporate appropriate levels of parking in line with West Sussex County Council guidance on parking provision, taking into consideration the impact of development upon on-street parking.

Paragraph 108 of the National Planning Policy Framework states that in assessing specific applications for development it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 109 of the National Planning Policy Framework states that 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.

WSCC Highways noted that the visibility splays required to meet Manual for Streets standards rely on third party land. Despite WSCC's consultation response requesting further information from the applicant, the applicant has indicated a desire for the Local Planning Authority to proceed with the determination of the application. The applicant cannot therefore ensure the visibility splays are provided and maintained in perpetuity. Under paragraphs 108 and 109 of the NPPF, safe and suitable access is

unable to be provided to the site.

WSCC also noted that the parking demand for each dwelling in this location, as set out within adopted Supplementary Planning Documents, detail the requirement for 3 spaces. At present, insufficient turning spaces are provided on the site to enable the maneuver of vehicles. The effect of this is that vehicles accessing the proposed 2 no. dwellings are unable to enter and exit the site in a forward gear. The inability to enter and exit the site in a forward gear would result in vehicle/pedestrian conflicts at the access point. Such an arrangement is in conflict with paragraphs 108 and 109 of the NPPF.

Taking into account the above comments received from WSCC, and the lack of evidence to satisfy the Council that visibility splays can be provided and maintained in perpetuity, the development would result in unacceptable impacts on highway safety; contrary to paragraphs 108 and 109 of the National Planning Policy Framework (2019) and Policy T SP1 of the Arun Local Plan. These impacts are considered to be both significant and demonstrable given their nature and are given significant weight.

ECOLOGY AND BIODIVERSITY

Policy ENV DM5 of the Arun Local Plan states that development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site.

Paragraph 170(d) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

The Council's Habitats and Ecology Officer has recommended generic methods of achieving biodiversity enhancements across the site. The Council are therefore satisfied that the loss in biodiversity that results from the hard surfacing of this green site would be offset by additional mitigation/compensatory methods that could be secured by condition.

The development could therefore accord with Paragraph 170(d) of the National Planning Policy Framework (2019) and Policy ENV DM5 of the Arun Local Plan; subject to the imposition of conditions.

CYCLE STORAGE

Policy T SP1 of the Arun Local Plan requires the Council to ensure that developments promote sustainable transport including the use of bicycles. WSCC Guidance on Parking at New Developments SPG sets out that for houses of up to 4 bedrooms 1 cycle space should be provided. This is consistent with the Arun District Council standards.

Paragraph 91 of the National Planning Policy Framework makes clear that planning policies and decisions should aim to achieve healthy, inclusive and safe places which (a) promote cycle connections. Paragraph 110 of the National Planning Policy Framework makes clear that applications for development should (a) give priority first to pedestrian and cycle movements.

The applicant has not indicated any cycle provision within the development. Owing to the site's location outside of the settlement boundary within the designated Strategic Gap, combined with its proximity to the Bognor to Chichester cycle route, use of cycling should be supported. Such provision could be secured by way of condition.

In the absence of sufficient cycle provision the development would currently fail to take opportunities to promote sustainable transport including the use of bicycles which would result in the reliance upon the private motor vehicle. However, this could be overcome through the use of conditions. Therefore, the development could accord with Policy T SP1 of the Arun Local Plan and paragraphs 91 and 110 of the

National Planning Policy Framework (2019).

TREES

Policy ENV DM4 of the Arun Local Plan requires development to be planned to take a comprehensive view of tree issues at an early stage in the design process and to ensure development works do not have a negative impact on existing trees.

Paragraph 170(b) of the National Planning Policy Framework (2019) states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, including trees.

There are no protected trees on the development site that would be affected by the proposed development and would therefore not conflict with paragraph 170(b) of the National Planning Policy Framework or Policy ENV DM4 of the Arun Local Plan.

It is noted that protected trees (TPO/BE/1/14) are present to the south east of the site. These trees ensured the consolidation of development on the adjacent permitted development BE/51/19/PL in perpetuity. The presence of these trees ensured the additional dwelling permitted by BE/51/19/PL would not appear isolated.

The proposed tree planting proposed in this instance would only be able to be secured for the period of 5 years following its planting. After this time it could then be removed. This could lead to 2 no. isolated dwellings in the countryside; contrary to NPPF provisions. This is therefore a materially different circumstance to the above permitted dwelling (BE/51/19/PL) which had the benefit of being consolidated by adjacent tree planting which was protected by way of TPO.

Taking into account the above factors, the proposed tree planting would have a materially adverse impact upon the wider landscape character of the area which is detailed in full above. The applicant would not benefit from the positive features that the TPO provided to the permitted scheme and insufficient control exists for the Local Planning Authority to maintain tree planting in perpetuity.

NEIGHBOURING AMENITY

Policy QE SP1 of the Arun Local Plan requires all development to contribute positively to the quality of the environment and ensure that development does not have a significantly negative impact upon residential amenity.

Paragraph 127(f) of the National Planning Policy Framework (2019) requires planning decisions to create places with a high standard of amenity for existing and future users.

Owing to the open countryside location of the development, and absence of nearby neighbouring dwellings, the proposed buildings would unlikely result in unacceptable impacts upon neighbouring properties. Both proposed dwellings would accord with the 45 degree line which would ensure no impacts upon overmassing or an overbearing impact would result. This is also the case with the dwelling permitted under permission BE/51/18/PL.

Taking these above factors into account, the development would not result in any unacceptable impacts upon neighbouring residents and would therefore accord with the contents of Policy QE SP1 of the Arun Local Plan and paragraph 127(f) of the National Planning Policy Framework. However, this is symbiotic of the the open countryside location of the application site.

INTERNATIONAL DESIGNATED SITE OF IMPORTANCE

The application site falls within the 5km buffer of the Pagham Harbour Special Protection Area. Within

Zone B Policy ENV DM2 of the Arun Local Plan requires all new residential development which is likely to have an impact on Pagham Harbour will be required to make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.

The applicant has provided the agreed financial contribution under Policy ENV DM2(b)(i) which provides accordance with this policy.

SUMMARY

The principle of development on this site is contrary to the policies within the Development Plan. However, these policies have reduced weight due to Arun District Council being unable to demonstrate a 5 year Housing Land Supply on the date of this assessment. The NPPF is held as a material consideration in decision taking when applying S38(6) of the Planning and Compulsory Purchase Act 2004. A decision can be taken other than in accordance with the development plan as the NPPF is overriding in this instance.

Paragraph 11(d)(ii) requires permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the 2019 Framework taken as a whole.

It is acknowledged, as in the case of planning application BE/51/19/PL, that the scheme would generate a number of economic benefits. These benefits comprise proximity to "basket economy" shops, Council Tax receipts, New Homes Bonus, CIL charge and employment associated with the construction. However, the nature of these benefits are mainly associated with the construction of the development and are therefore both temporary/short term in duration and small-scale in nature. This report has identified that the harm associated with the development, and its conflict with the NPPF provisions, would be long term, significant and demonstrable in nature.

To grant consent under the tilted balance, paragraph 11(d)(ii) of the 2019 Framework requires that the adverse impacts of the development need to be significantly and demonstrably outweighed by the benefits, when assessed against the policies in the 2019 Framework taken as a whole. This has not been the case for the reasons detailed in this assessment and planning permission should therefore be refused.

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

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

The applicant has completed an S106 agreement towards Access Management to the sum of £1,742.00 towards the costs of delivering measures to avoid, or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development.

RECOMMENDATION

REFUSE

- 1 The development fails to be sympathetic to the local character and landscape setting, fails to improve the character and quality of the area and its function. The development would result in an unacceptable level of cumulative impact; contrary to paragraphs 127, 130 and 170 of the National Planning Policy Framework (2019) and Policies C SP1 and SD SP3 of the Arun Local Plan and Policies ES1 and HDQ2 of the Bersted Neighbourhood Development Plan.
- 2 The application provides insufficient information to demonstrate adequate visibility splays can be provided and maintained in perpetuity and would fail to provide adequate on-site turning space, leading to an unsafe access to the site and unacceptable impacts upon highway safety; contrary to paragraphs 108 and 109 of the National Planning Policy Framework (2019) and Policy T SP1 of the Arun Local Plan.
- 3 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by 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 INFORMATIVE: Refusal reason 2 could be overcome through a demonstration of adequate vehicle tracking on site, subject to an amendment of a non-material nature/extent and additional information demonstrating control over the required visibility splays.