

Recommendation Report for Permission in Principle

**REF NO:** BN/11/25/PIP

**LOCATION:** Land South of Wandleys Lane  
opposite Wanley Lodge  
Barnham  
BN18 0YT

**PROPOSAL:** Application for planning in principle for a minimum net gain of 5 No dwellings and a maximum net gain of 7 No residential dwellings with associated access and landscaping.

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	The application is accompanied by a location plan and a planning statement. The site is located to the south of Wandleys Lane, where a new access will derived from.
	Other details indicate the proposal is for between 5-7 dwellings.
SITE AREA	0.26 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Between 19 and 27 dwellings per hectare (dph).
TOPOGRAPHY	Predominantly flat.
TREES	There is an existing tree within the part of the site to be used as the access but the supporting statement suggests all trees can be retained. There are trees and hedging to the boundaries of the main part of the application site.
BOUNDARY TREATMENT	Hedgerow and tree belt to northern and western boundaries. Open grazing land otherwise.
SITE CHARACTERISTICS	Open grazing land.
CHARACTER OF LOCALITY	The site is outside the village centres of Eastergate and Walberton in a rural area but one in which there is existing sporadic ribbon development along the Lane comprising residential dwellings. The lane is narrow and densely vegetated and had a rural quality.

<b>RELEVANT SITE HISTORY</b>
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PAA/25/24/	Proposed development comprising of 8 No. dwellings with access from Wandleys Lane, and associated landscaping.	Refuse Pre App 13-06-24
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## REPRESENTATIONS

Barnham and Eastergate Parish Council object to the proposal.

- The existing sewer system cannot cope with additional dwellings. This is supported by Southern Water under application WA/111/23/PL.
- The proposal would contravene Dark Night Skies policy ES16.
- The site is located in between two biodiversity corridors and contravene environmental/ecological policies.
- The proposal is outside of the BUAB and would harm landscape views contrary to policy.
- The site is not part of their Neighbourhood Plan.

There are 3 letters of objection from neighbours.

- The development is on a small rural lane which is not only a designated 'Quiet Lane' but is also a 'Green Corridor' for wildlife.
- The development will increase traffic which will be harmful for pedestrians, walkers and equestrians.
- Damage is occurring to the lane due to increased traffic, harming the character of the lane.
- The lane has become a 'rat run' during busy times.
- Harm to wildlife.
- The local area has already provide many new homes for the local community.
- The site is not within the defined settlement boundary.
- The development will increase surface water flooding.
- The proposal include the loss of the hedgerow/trees.

### COMMENTS ON REPRESENTATIONS RECEIVED:

Noted, the issues raises are covered in the report conclusions.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER - Not enough details provided.

- The development site is not in Southern Water's statutory area for water supply drainage services, this falls to Portsmouth Water.

WSCC HIGHWAYS - No comments received.

ADC ENVIRONMENTAL HEALTH - No objection and request conditions.

- Conditions relating to external plant, lighting, contamination, noise and construction working hours requested.

### COMMENTS ON CONSULTATION RESPONSES:

Noted. It is not possible to impose conditions on PIP's.

## POLICY CONTEXT

Designations applicable to site:

- Outside the Built-Up Area Boundary.
- Area of Advert Special Control.
- Water Source Protection Zones 1C/2C.
- Sharp Sand and Gravel Minerals Safeguarding Area.
- Designated Biodiversity Corridor (Wandleys Lane).
- Current/Future Flood Zone 1.
- No known surface water flood risk.
- Potential High groundwater flood risk.
- CIL Zone 3.
- Lidsey Treatment Catchment Area.
- Existing Public Sewer on Wandleys Lane; and
- Within the Singleton & Cocking Tunnels Special Area of Conservation (SAC) 12km buffer area.

## DEVELOPMENT PLAN POLICIES

## POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The current Barnham and Eastergate Neighbourhood Development Plan (BENP) is made and its policies are referred to in this report.

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal conflicts with the development plan in that it would result in development outside of the defined settlement boundary.

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

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

## OTHER MATERIAL CONSIDERATIONS

There are other material considerations to be weighed in the balance with the Development Plan. These include applications BN/144/22/OUT (as varied by BN/65/23/PL) and BN/134/23/RES and will be discussed in the report below.

<b>CONCLUSIONS</b>
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This is a Permission in Principle application, and the Local Planning Authority can only assess whether the site is suitable in principle. The National Planning Practice Guidance (NPPG) states at paragraph 012 (Reference ID\_ 58-012-20180615) that: "The scope of permission in principle is limited to location, land use and the amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the Technical Details consent stage."

The NPPG also confirms at paragraph 020 (Reference ID: 58-020-20180615) that conditions cannot be imposed. The following report solely analyses the proposal in terms of location, land use and amount in respect of the principle of development.

#### LOCATION/LAND USE:

This section covers the location/use of the site with reference to countryside, agricultural land, and wildlife designations.

#### Flood Risk:

The site lies in Flood Zone 1 (lowest risk), and this is not predicted to change in the future when climate change data is applied. It is in the Lidsey Wastewater Treatment Catchment Area and has a potential high risk of groundwater flooding, and this may make it difficult to drain the site through means of infiltration. BENDP policies ES1b seeks to reduce flood risk by ensuring that development of greenfield sites demonstrate that peak surface water run-off rates and run-off volumes from the application site will be returned to pre-development greenfield criteria, and ES1c states proposals must demonstrate that sewage infrastructure cannot release into or be infiltrated by surface water. These matters can be resolved at the Technical Details stage, however, if infiltration is not possible (and this will need to be proven in any Technical Details submission), then another means to discharge surface water will be required. Discharge to the foul sewer is prohibited.

#### Countryside:

Arun Local Plan (ALP) policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal and so the proposal conflicts with the ALP. The council cannot currently demonstrate a 5-year Housing Land Supply (HLS) and so the presumption in favour of sustainable development is engaged (paragraph 11(d) of the NPPF).

The BENP was made in March 2022 and shows the site outside the BUAB. Policy H8 maintains that development in the countryside is inappropriate unless in accordance with a specific form of development the Plan, or if it can be demonstrated that it is required to be located in the countryside. There is conflict with this policy.

The NPPF is an important material consideration in determining planning applications. As the Council cannot demonstrate a 5-year HLS, para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered.

The site is outside of the nearest BUAB (130m in a straight line) and it does not have any particular direct route linking with the edge of the BUAB. Access to both Eastergate or Walberton is approx. 1.2km along Wandleys Lane. The lane is unlit at night and the vast majority does not have pavements or grass verges

for pedestrian to safely walk along, but vehicle speeds are not excessive. It is a material consideration that a neighbouring site to the east has recently had approval for 4 dwellings (BN/65/23/PL and BN/134/23/RES) and that the Outline permission did not seek to refuse the application on the development not being within a sustainable location. Given the location of the two developments, it could be unreasonable for the Authority to now considered the site unsustainable in terms of location constraints alone.

There will be some localised harm to the natural environment arising from the development, but this can be mitigated by biodiversity net gain. Meanwhile, conditions (to be applied at the Technical Details stage) can be imposed to secure electric vehicle charging points, cycle storage, energy efficiency measures and superfast broadband which will all help to reduce emissions and the need to travel by car.

The 5 -7 dwellings will make a positive, albeit minor, contribution to the current HLS shortfall and help in a small way to meet local housing needs. The development may have a positive impact on the construction supply chain. The proposal meets the economic, social, and environmental aspects of sustainable development and the presumption in favour of sustainable development is engaged.

Paragraph 14 of the NPPF states where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the Plan is (a) less than 5 years old and (b) contains policies and allocations to meet its identified housing requirement. The BENP was made in 2022 and includes several policies/allocations for new housing in line with the indicative requirement at the time of the BENP was examined.

The Planning Statement indicates that as a result of the latest NPPF update and uplift in housing requirements the BENP no longer incorporates the most recent evidence of local housing needs, nor does it provide an indicative figure as outlined in para 70, based on the up-to-date standard housing method. As a result of this it is argued that the BENP now conflicts with 14(b).

Para 69 of the NPPF, which para 14 directs leads to, indicates that Authorities should establish a housing requirement figure for their area, which shows the extent to which their identified housing need can be met over the plan period. A requirement is to be set out of the neighbourhood plan areas. Once, adopted, the required figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances.

The Arun Local Plan (ALP) has set out a commitment of 1,250 dwellings across all neighbourhood planning areas, of this figure the BENP had an identified need of 77 dwellings. The recent uplift required to the ALP of 10% is not significant and it is considered that the BENP requirement figure, in accordance with para 69, does not need re-testing. The 3 policies in the BENP identify 3 sites with a total allocation of 117 dwellings, this over and above the identified need even if a 10% uplift were to be included, although given the above it is not considered that it need be included. On this basis where there is conflict with the plan, the NPPF directs that this will likely outweigh the benefits.

The Planning Statement provided a list of other relevant development namely applications BN/144/22/OUT (as varied by BN/65/23/PL) and BN/134/23/RES. However, these applications were approved prior to the alterations to para 14 of the NPPF and have limited weight in terms of justification towards the locational constraints which the proposal is contrary to.

The proposal would result in new dwellings located to an area of open space of which there are currently extremely limited views from Wandleys Lane of as a result of the good boundary screening. The lane is allocated as a 'historic rural road' (HRR) in Policy ES5 of the BENP, where development will be refused if it reduces the biodiversity, landscape and amenity value and character of the HRR. The location plan

indicates an approx. 16m section of the highway buffer landscaping to be removed. Limited views are possible from south of the site as a result of the openness of the land. Removal of a section of the highway buffer screening may harm to the character of the area.

The principle of development on this site conflicts with both the ALP and the WNDP in respect of development in the countryside. This is harmful having regard to the spatial characteristics of the area and the character of the site's surroundings. The NPPF presumption and the impact of paragraph 14 are considered at the end of this report.

Impact on the Special Area of Conversation (SAC):

BENP policy ES17 states development within the 12km buffer of the SAC must evaluate the potential loss of suitable foraging habitat and/or severance of commuting flight-lines such as semi-natural meadows, mature treelines, hedgerows, and watercourses. The policy states such features should be preserved unless it is demonstrated that they are not used by barbastelle bats. Policy ES16 of the BENP seeks to protect the dark night skies, where development proposals which detract from the unlit environments of the Parish will not be supported.

The NPPG (para 005, Reference ID: 58-005-20190315) states permission in principle must not be granted for development which is likely to have a significant effect (either alone or in combination) on a qualifying European site. Where development is likely to have a significant effect on a qualifying European site without any mitigating measures in place, the Local Planning Authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle.

This site is an area of open grassland within the 12km buffer zone for the SAC. It has a strong tree/hedgerow line to its northern and western boundaries, which may be crucial to the functionality of the land in respects of species. Two biodiversity corridors can be found in close proximity with corridor no. 3 laying immediately to the sites north-western boundary. Part of the tree buffer will be lost as a result of the proposed access, the Planning Statement has not indicated potentially what, or how this will be mitigated for. A Preliminary Ecological Appraisal is required to make an initial assessment of the ecological value and potential of site, one has not been submitted with this application. Where evidence of bats is found or, where there is suitable habitat on or within a certain distance of a site to support protected species and this may be affected by development, further surveys will be required. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an appropriate assessment may be required, as information pertinent to this has not been provided it is not possible to make an assessment at this time.

Policy ES15 is of relevance to the use of the land. It states that development within, or adjacent to a Biodiversity Corridor must assess the impact of development proposals on the natural environment and must not significantly harm to the integrity or function of the Biodiversity Corridors. Development should contribute to and enhance the natural environment. Despite the limited details which have been provided regarding the proposal, details of the access point have been shown on the location plan. It is also assumed that even if the specific location of the access point were to be re-positioned at the Technical Details stage, the access would always need to penetrate through the buffer. Although the specific detail of the loss of the buffer can be secured at the Technical Details stage, there is currently an unknown level harm to protected species using the Biodiversity Corridors. could be significant

At the Technical Details stage, there would be a consideration of biodiversity net gain, mitigation, and enhancement. However, at this time evidence has not been submitted which has assessed the likelihood of bats using site, any potential harm to those bats, or provided any mitigation to prevent such harm. Nor has consideration been given to the potential harm to the tree/hedgerow buffer of the lane, its impact on

the Biodiversity Corridor, or the character of the area. It is therefore the LPAs view that the siting of dwellings on the land has an undefined (which may be significant) harm on bats and the functionality of the land in respect of the SAC however, in the context of this application these detail can be sought at the Technical Details stage, as such it would not be reasonable to refuse on this basis.

**Minerals:**

The site is in a Sharp Sand and Gravel Minerals Safeguarding Area. Policy M9 (b) states that proposals for non-mineral development within the Minerals Safeguarded Areas will not be permitted unless: (i) Mineral sterilisation will not occur; or (ii) it is appropriate and practicable to extract the mineral prior to the development taking place, or (iii) the overriding need for the development outweighs the safeguarding of the mineral and it has been demonstrated that prior extraction is not practicable or environmentally feasible.

Given the limited size of the site and the fact the details of potential extraction can be required at the Technical Details stage, a refusal based on the fact that it is unknown whether mineral sterilisation will occur would not warrant refusal of the application.

**AMOUNT OF NEW DEVELOPMENT:**

The Arun Design Guide (ADG) sets an indicative density of 5-15 dph for detached/semi-detached homes in rural locations with a decrease in density when moving away from the centre of a settlement. As the site is in a remote location, between other BUAB it could be expected that density of this site should be at the lower end of the guidance. BN/144/22/OUT approved a density of 10 dph. The proposed density of development of 5-7 dwellings is higher than both the guidance levels and the neighbouring site.

The development framework includes guidance on plot/garden sizes, separation gaps between dwelling etc which cannot be determined at this stage but would need to be ahead to. These details would all be securable at the Technical Details stage having regard to the detailed policies.

Whilst it is not necessary to provide layout details at the PIP stage, without any indicative plans, it is not possible to say whether 5 - 7 dwellings is achievable. Although there are policy requirements which the proposal would need to accord with, a density significantly higher than guidance levels and neighbouring development is likely to be out of character and harmful.

**SUMMARY:**

This report identifies that the proposal conflicts with the development plan policies in respect of development in the countryside. This is by definition an unsuitable location for new homes having regard to the spatial characteristics of the area. In addition, the proposal would have a density of development which may be harmful to local character and there is an unknown level of harm to protected species using Biodiversity Corridors and landscape features. The application is for between 5-7 dwellings and so the benefits would be limited in scope.

The NPPF presumption in favour of sustainable development states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Given the minor nature of the benefits, the clear policy conflicts and the weight given to those conflicts which relate to the BEDP (given the effect of para 14 of the NPPF), it is concluded that the adverse

impacts would clearly outweigh the benefits and so a refusal is justified. Therefore, it is recommended that this PIP be refused for the following reason.

<b>RECOMMENDATION</b>
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REFUSE

- 1 The site lies in the designated countryside and is an unsuitable location for new residential development having regard to the spatial characteristics of the area in conflict with Arun Local Plan policy C SP1, Barnham and Eastergate Neighbourhood Development Plan policy H8 and with reference to the weight to be afforded to Neighbourhood Plans by virtue of paragraph 14 of the NPPF.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.