

Recommendation Report for Approval of Reserved Matters Following Outline Approval

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| REF NO:   | BN/128/24/RES   |
| LOCATION: | Eastmere Stables Eastergate Lane<br>Eastergate<br>PO20 3SJ  |
| PROPOSAL: | Approval of reserved matters (other than access) following the grant of BN/99/22/OUT (APP/C3810W/22/3312864) for 9 No. dwellings. This application is in CIL zone 3 and is CIL liable as new dwellings. |

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| <b>SITE AND SURROUNDINGS</b> |
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| DESCRIPTION OF APPLICATION      | <p>This application seeks approval for the reserved matters of appearance, landscaping, layout, and scale following an outline permission (BN/99/22/OUT) that established the principle of nine dwellings on this site, together with approval of the means of access.</p> <p>The proposal is for nine detached houses all with generous areas of front &amp; rear garden and parking. There is a mix of 2 bedrooms (3), 3 bedrooms (4) and 4 bedrooms (2) whilst two of the dwellings are bungalows. Parking is the form of garages, car ports and on-plot driveway spaces. In addition, the scheme includes two visitor spaces. Cycle storage will be within garages or car ports. A small area of open space is provided along the northern edge. Proposed materials are indicated on the elevation drawings whilst boundary treatments and hard surfacing are shown on the coloured site plan.</p> <p>The layout has been slightly amended since submission to create a slightly bigger gap between the rear of plot 9 and plot 8's rear garden. In addition, the application increased the number of proposed trees and provided a landscaping scheme.</p> |
| SITE AREA                       | 0.8 hectares.   |
| RESIDENTIAL DEVELOPMENT DENSITY | 11.25 dwellings per hectare.  |
| TOPOGRAPHY                      | The site is predominantly flat, with approximately 0.1m of rise from south to north, over approximately 100m of length, and approximately 0.7m of fall from west to east, over the same approximate distance.   |
| TREES                           | There are two established trees on the northern edge of the site plus several forming part of a hedgerow on the western boundary. There are also significant trees either side of the access with one of these being within the garden of the   |

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| BOUNDARY TREATMENT    | adjacent Oaks.<br>The site is screened by a mixture of trees and hedging. This is particularly prevalent along the western boundary of the site. The site is bordered by residential development to elements of its southern and eastern boundaries, however, access is taken from the southern boundary, where it meets the road.  |
| SITE CHARACTERISTICS  | The site is on the northern side of Eastergate Lane and comprises an area of equestrian land, including a number of stables, stores and workshops; areas of hard standing, a sand school, part of a horse gallops, areas of introduced shrubs & amenity grassland; and a section of improved grassland paddock. The western section of site is formed of semi-improved grassland, tall ruderal, and scrub with scattered trees.   |
| CHARACTER OF LOCALITY | The site is in a rural location with sporadic housing along Eastergate Lane. Farming and equestrian uses are in the vicinity. There are some dwellings opposite. Eastmere House sits to the east of the site beyond the stable buildings whilst the Oaks borders the site on the western side (with its access taken from within the site). The wider area is predominantly rural with varying land uses including arable and recreational. The surrounding fields consist of a mixture of tree and hedge bound fields. |

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| <b>RELEVANT SITE HISTORY</b> |
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| BN/25/23/OUT | Outline permission with all matters reserved, other than access, for 4 No self-build dwellings (resubmission following BN/99/22/OUT). This application is a Departure from the Development Plan. | ApproveConditionally<br>06-09-23   |
| BN/99/22/OUT | Outline permission with all matters reserved, other than access, for 9 No residential dwellings. This application is a Departure from the Development Plan.                                      | Refused<br>12-09-22  |
| BN/66/21/PL  | 1 No. dwelling (not restricted by equestrian use). This application is a Departure from the Development Plan & the site in in CIL Zone 3 (Zero Rated) as no increase in floor area.              | <b>Appeal: Allowed+Conditions</b><br><b>04-07-23</b><br>ApproveConditionally<br>06-08-21 |
| EG/102/16/PL | 1No. Dwelling for permanent agricultural worker following temporary approval EG/62/15/PL   | ApproveConditionally<br>18-04-17   |

BN/99/22/OUT for 9 residential dwellings was allowed on appeal on 4 July 2023. Subsequently, a permission for a smaller amount (4) of self-build dwellings was granted by the Planning Committee in September 2023. The adjacent dwelling (The Oaks) was previously granted permission under EG/102/16/PL and restricted to agricultural workers only but this restriction was then lifted by BN/66/21/PL.

## **REPRESENTATIONS**

Barnham & Eastergate Parish Council stated no objection and there were no letters from residents.

### **COMMENTS ON REPRESENTATIONS RECEIVED:**

Noted.

## **CONSULTATIONS**

### **CONSULTATION RESPONSES RECEIVED:**

WSCC HIGHWAYS - stated no objection subject to conditions to secure vehicle parking and cycle storage. States no concerns with the parking provision, or the ability of refuse emergency vehicles to turn within the site.

ADC DRAINAGE ENGINEER - stated objection due to insufficient information and conflicting drainage information which together prevent the proposed scheme from being assessed.

ADC ECOLOGY - stated no objection to the proposed Construction Environmental Management Plan (CEMP). Requests that a reptile mitigation strategy and lighting scheme be conditioned. Also highlights that a Habitats Regulations Assessment is required. Following the submission of further Biodiversity Net Gain (BNG) information, advises that it does not look like the scheme can deliver the 10% required by the condition on the site as there will be a 69% net loss of hedgerow units and the developer may therefore need to purchase off-site credits. Requests further details of how the BNG will be achieved.

ADC ENVIRONMENTAL HEALTH - stated no concerns with the submitted CEMP or the electric vehicle charging provision. Requests conditions be imposed regarding land contamination, lighting, and noise.

### **COMMENTS ON CONSULTATION RESPONSES:**

Noted and discussed in the conclusions except as the following:

WSCC HIGHWAYS - in accordance with condition 5 imposed on the outline, the applicant has provided details of cycle storage with the application therefore, there is no need for a condition. In addition, the layout already includes full details of the parking provision so there is equally no need for a condition.

ADC ECOLOGY - it is not appropriate to impose a condition to secure a reptile mitigation strategy as it is not a reserved matter. In addition, there was already a lighting condition imposed on the outline, so it is not appropriate to duplicate this. An informative will be added to direct the applicant to ensuring the lighting scheme is bat friendly. The BNG requirements are subject to a condition on the outline which requires agreement post-decision therefore it is not appropriate to determine these issues through this application.

ADC ENVIRONMENTAL HEALTH - There are already contamination and lighting conditions on the

outline permission. However, a noise condition will be imposed.

## POLICY CONTEXT

Designations applicable to site:

- Outside the Built-up Area Boundary (BUAB).
- Current & Future Flood Zone 1.
- No known surface water flood risk within the site area.
- Potential for high groundwater levels.
- Water Source Protection Zones 1c & 2c.
- Lidsey Treatment Catchment Area.
- Advert Special Control.
- CIL Zone 3; and
- Within 12km of the Singleton and Cocking Tunnels Special Area of Conservation (SAC).

## DEVELOPMENT PLAN POLICIES

### Arun Local Plan 2011 - 2031:

|        |  |
|--------|--|
| DDM1   | D DM1 Aspects of form and design quality |
| DDM2   | D DM2 Internal space standards           |
| DSP1   | D SP1 Design                             |
| ENVDM4 | ENV DM4 Protection of trees              |
| ENVDM5 | ENV DM5 Development and biodiversity     |
| QESP1  | QE SP1 Quality of the Environment        |
| TSP1   | T SP1 Transport and Development          |
| WMDM1  | WM DM1 Waste Management                  |
| WDM3   | W DM3 Sustainable Urban Drainage Systems |

### Barnham & Eastergate Neighbourhood Plan 2019 Reducing Flood Risk

#### POLICY ES1b

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|---|--|
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY ES5  | Quality of design                            |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY ES10 | Trees and Hedgerows                          |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY ES15 | Green Infrastructure and Ecosystem Services  |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY ES17 | Singleton and Cocking Tunnels SAC            |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY GA4  | Parking and new development                  |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY H4   | Integration of new housing into surroundings |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY H5   | Outdoor space                                |
| Barnham & Eastergate Neighbourhood Plan 2019<br>POLICY H6   | Attention to detail                          |

**PLANNING POLICY GUIDANCE:**

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

**SUPPLEMENTARY POLICY GUIDANCE:**

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

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031 (ALP), West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The relevant policies of the Barnham and Eastergate Neighbourhood Development Plan (BENDP) 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 complies with relevant Development Plan policies in that it would result in a development of an appropriate scale, layout and appearance which is not harmful to the character & appearance of the area, the existing trees or the amenities of existing and future residents.

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

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

**OTHER MATERIAL CONSIDERATIONS**

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

**BIODIVERSITY NET GAIN**

This application is not liable for statutory Biodiversity Net Gain (BNG) but there was a condition placed on the outline permission requiring 10% BNG and this will be determined post permission.

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| <b>CONCLUSIONS</b> |
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**PRINCIPLE:**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The principle of the development of the site for nine dwellings and the associated access has already been established through the determination of BN/99/22/OUT. The Local Planning Authority can now only consider the outstanding reserved matters of layout, scale, appearance, and landscaping. It is only appropriate to consider development plan policy and material considerations in respect of the reserved matters.

Matters relating to countryside location, highway safety, and foul drainage (the principle of 9 new dwellings connecting to the network), were all determined at the outline stage and covered by any relevant conditions imposed on the outline permission and, therefore, do not fall to be assessed under this reserved matter submission.

**OUTLINE PERMISSION COMPLIANCE:**

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

Condition 5 states that the reserved matters (RM) application must be accompanied by details of proposed materials, details of vehicle and cycle parking, details of electric vehicle charge points (EVCP), and an Arboricultural Impact Assessment & Method Statement.

Initially, the submission was in conflict with these requirements as there were no details of EVCP and although the applicant had stated that cycle storage would be within garages, no details of how cycles would actually be securely stored had been provided. However, the applicant has since provided such details for consideration.

Outline conditions 6, 7, 8, 9, 10 and 12 all require separate approval in writing, and it is not possible to discharge conditions through a RM decision. The applicant included several items with the RM submission that related to these matters and stated that they had hoped to agree the outline conditions through the RM decision so that an application could then be submitted to remove or vary the relevant conditions on the outline permission. However, this approach is not one that Arun DC is familiar with and also was not identified by the applicant until very late in the process. Therefore, no determination is made through this report on the requirements of conditions 6, 7, 8, 9, 10 and 12. Of these, it is noted that only no. 7 has a pre-commencement trigger.

**LAYOUT, APPEARANCE AND SCALE:**

ALP policies D DM1 and D SP1 are relevant in respect of design and character. BENDP policy ES5 requires new residential development to be of high-quality design and integrate with the local landscape and built environment. In addition, policy H4 requires that where new green-field development creates a new edge to the countryside, then this should provide amenity and biodiversity value. Policy H6 requires

that application drawings include details of bin storage, cycle storage and meter boxes.

The Arun Design Guide (ADG) is a material consideration in the determination of this application and suggests a density of 5-15 dwellings per hectare (dph) in rural locations. The proposed density of 11.25 is therefore appropriate. Part Q of the ADG discusses rural development and requires that development be simple, unobtrusive, traditional and respect rural character. There should also be an emphasis on landscape integration and the avoidance of overly detailed buildings.

The initial submission did not justify the design approach in response to the ADG, but a supplementary Design Statement has since been provided. This concluded that:

- The design approach was based on a review of the Eastergate Lane building vernacular, scale, and materials.
- There is no single architectural style prevalent within the local area.
- The majority of plot shapes are of square format, with the longest building facade fronting the road and the scheme seeks to reflect this.
- The house designs are simple in form, are bespoke to the site and have clear primary/secondary facade articulation.
- Dwellings have been designed with scale, form, and mass to adopt a contemporary interpretation of traditional buildings.
- Designs include stepped facades, gabled roofs, and a mix of roof pitches, heights, and levels.
- High quality natural materials are proposed, which reflect the existing local vernacular and design language; and
- Hard surfacing is kept to a minimum, to enable access and efficient usability, whilst providing clear ownership definition.

No concerns are raised regarding the design approach and the layout in general works well with the shape of the site, the agreed access position, and the surroundings. It is also positive that the scale is in character with the surroundings, including the use of bungalows and that no significant levels increases are proposed. Whilst there is no biodiversity planting proposed to the new northern edge, the landscape scheme does show trees in the rear gardens of the dwellings bordering this edge and the use of timber fencing on the edge is entirely in character with the existing boundary arrangement.

There is no requirement for on-site public open space for a site of this size but the inclusion of an area of space is positive and assists with the general greening of the new development. Matters of layout, appearance and scale are all appropriate for the characteristics of the site and the character/appearance of the surrounding area. The proposal is in accordance with the relevant policies.

#### **LANDSCAPING & TREES:**

ALP policy D DM1 requires developments to incorporate new tree planting and to improve upon character through landscaping. Policy ENV DM4 states TPO protected trees, those in ancient woodland, in a Conservation Area or trees that contribute to local amenity should not be damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. BENDP policy ES10 states the loss of trees contributing to amenity will only be sanctioned where the benefits outweigh the loss.

It is proposed to remove a Sycamore (T01), an Ash (T02), a Hawthorn (T06), a Poplar (T07), three groups of Cherry Laurel shrubs (G01, G02 & G03), a group of six unknown dead trees (G05), approximately 32m of a mixed species hedge (H01) and approximately 22m of a mixed species hedge (H02). Trees T02 and T07 are noted as B class with all others being either C or U. In total, 4 trees, four groups and two sections of hedge are to be removed.

The Council's Tree Officer has not commented on the application and also did not make any comments on either of the two outline applications. The loss of the B class Ash and Poplar trees is unfortunate but the benefits of 9 dwellings to the existing Housing Land Supply deficit and to the local economy serve to outweigh the harm that arises from the losses. It is also material that the detailed soft landscaping plan proposes 23 new trees (comprising Silver Birch, Bird Cherry, Callery Pear and Malus John Downie) which more than compensate for those trees that will be lost.

In addition, a total of 166 metres of new Hornbeam hedge (comprising 9 new hedges) will be planted on the site. The landscaping scheme also includes shrub planting and grassland/lawn areas. The Council's Landscape Officer has not commented. The application is accompanied by a Tree Protection Plan and an Arboricultural Impact Assessment which sets out measures to protect trees. The scheme complies with the relevant policies.

#### **OTHER MATTERS:**

The reserved matters of scale, layout, appearance, and landscaping have been assessed above. There are some other issues to consider which relate to the detail of the scheme, but which do not fall under the above headings.

#### **Housing Mix**

ALP Policy H DM1 on Housing Mix does not apply to schemes of less than 10 dwellings but BENDP Policy H1 requires that proposals for market housing of 5 or more dwellings should demonstrate that evidence of local need for older persons housing is reflected in the type and mix of homes proposed. The application does not provide any evidence of local need but does state that the two bungalows have been proposed to reflect the Parish requirements. There is also no requirement to provide M4(2) or M4(3) housing given the number of dwellings however, the bungalows would be suitable in principle for disabled residents. It is also material that the Parish have not objected to the mix.

#### **Residential Amenity & Space Standards:**

ALP Policies D DM1, D DM2 & QE SP1 and BENDP Policy H5 are relevant. The ADG sets out guidance on interface distances between houses:

- Back-to-back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/ front to side: min. 14m between habitable rooms and side gable of adjacent property; and
- Front to front: min. 16m between habitable rooms and site boundary to existing landscaping.

Following amendment, all plot-to-plot relationships meet the standards however, there remains a slight concern in respect of the relationship of plot 9's rear elevation which looks towards plot 8's rear garden and is also in close proximity to The Oaks dwelling and gardens. It is noted that there is an existing first floor flank window on The Oaks, but this was shown on the approved plans for that dwelling as serving a storage space above the garage with no access from the rest of the dwelling, therefore it is not habitable. However, given the potential for views of the respective gardens and noting that the windows on the rear of plot 9 serve a study and a bathroom, a condition will be imposed to require obscure glazing.

The ADG also states private rear gardens should be at least 10.5m deep and that front gardens should be 2m deep. Following amendment, all rear gardens now meet this requirement whilst the front gardens already exceeded the standard.

As per ALP policy D DM2 it is necessary to assess the proposal against internal space standards set out



in the Governments Technical Housing Standards (Nationally Described Space Standard or NDSS) to determine if the buildings will be suitable for future residential occupiers. The floorplans have been cross referenced with the NDSS and the gross internal floor areas of all the houses exceed the standards.

#### **Parking and Roads:**

ALP policy T SP1 and BENDP policy GA4 are relevant as is the Arun Parking Standards SPD. The overall parking requirement according to the SPD is 20 allocated spaces plus 2 visitor parking spaces. The scheme over provides on parking with a total of 28 allocated spaces (this total accounts for the need to count garages as half a space each) and 2 additional visitor spaces (so 30 in total).

It is noted that plots 2 and 9 both have single carports which currently count as 1 space each, but these could be converted to garages without planning permission. Normally, this would be grounds to impose a condition removing permitted development rights to prevent such a conversion. However, in both cases the total parking requirement for these 2 bed dwellings is 2 spaces and these houses both have 2 on-plot spaces and the carport therefore if the carport was converted, then the dwelling would be considered to have 2.5 spaces.

The two visitor spaces are both only 2m wide which is not in accordance with the ADG which specifies dimensions of 2.5m by 5m for all spaces. The applicant advised this width is in accordance with Manual for Streets (MfS) which states that parallel visitor bays can be 6m x 2m. This was queried with WSCC Highways, and they advised that the ADG only refers to standard parking bays whereas MfS differentiates between perpendicular and parallel. They advise the 2m width is appropriate as there are no constraints for occupants entering or exiting the vehicle whereas the 2.5m width is typically required to allow car doors to open should the vehicle be parked in a constrained location such as adjacent a wall or another vehicle. Whilst there is a conflict with the ADG, this is acceptable given the circumstances. All other spaces are 2.5 x 5m (or 3m by 6m for garages).

There is also a requirement under MfS and the Parking SPD for the provision of disabled parking spaces on the site at 5% of all surface spaces equating to 1 space to measure 3.6m wide by 6m long. The visitor spaces are both the correct length and whilst they are only 2m wide, the pathway on the western side of these spaces is 2m wide. Therefore, if a disabled driver was to park in one of the visitor spaces they would be able to use the pavement space to open their car door and access or egress a wheelchair. This would only briefly block the pavement and would not result in any harm. If there was a permanent demand in the future for an on-plot disabled space then this could be delivered for the majority of dwellings or one of the on-street visitor spaces could be permanently allocated for disabled use.

WSCC Highways raise no objections, and the proposal is in accordance with the relevant policies.

#### **Waste Management:**

ALP policy WM DM1 requires that residential development is designed to ensure that kerbside collection is possible for municipal waste vehicles. The application includes details of how larger vehicles (including refuse vehicles) can enter and exit the site in a forward gear and WSCC Highways raise no highway safety concerns.

There are no details as to bin storage or collection, but the layout would easily allow for bins to be wheeled from a position adjacent to the dwelling or in the rear garden to the edge of the highway on collection days. A condition is not required to secure bin storage, and the development complies with ALP Policy WM DM1.

#### **Surface Water Drainage:**

Detailed drainage matters are already covered by condition 9 on the outline planning permission and will be agreed through the discharge of such conditions. ALP Policy W DM3 and BENDP policy ES1b are both relevant. The applicant indicates the drainage scheme will include the use of permeable paving, underground attenuation within the subbase and water butts to downpipes.

The application has attracted an objection from the Council's Drainage Engineer due to insufficient information and conflicting drainage information which together prevent the proposed scheme from being assessed. However, drainage is not a RM and is controlled by a condition imposed on the outline approval. Should there be a situation where the drainage condition cannot be agreed in the future due to the layout not providing sufficient space then a new RM application would need to be submitted to account for the necessary changes.

On this basis, this RM application can be determined without the support of drainage engineers and therefore it is not necessary to demonstrate compliance with the relevant policies at this time. The applicant is aware of the objection and that it could result in a new RM application and an informative has been included to this effect. On this basis, there is no conflict with ALP policy W DM3 or BENDP policy ES1b.

#### Ecology and Biodiversity Net Gain:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. A BENDP designated Biodiversity Corridor runs between the eastern edge of the site and the dwelling Eastmere. Policy ES15 states new development adjacent to the Biodiversity Corridors must assess the impact on the natural environment and must not give rise to significant harm to the integrity or function of the Biodiversity Corridors. The policy sets out the requirement for a 10% biodiversity net gain (BNG) through the use of the Defra approved biodiversity metric, and this should be delivered on-site.

Biodiversity is not a RM and was assessed at the outline stage with the Council's Ecologist raising no objection subject to conditions. The Council now has a different Ecologist, and they have requested a further condition to secure a reptile mitigation plan however as biodiversity is not a RM, this cannot be imposed, and it is material that there are already conditions on the outline permission that relate to construction management (in relation to biodiversity) and biodiversity enhancements. The latter also requires that the scheme demonstrate 10% net gain as per the BENDP Policy.

The Council's Ecologist has raised concerns with how the BNG can be delivered but as this is subject to a condition and biodiversity is not related to any of the RMs, it is not appropriate to determine this issue through this decision. Should the scheme not be able to comply with the condition due to there not being sufficient space for on-site BNG then a new RM application will be required. The applicant is aware of the concerns and that it could result in a new RM application and an informative has been included to this effect. There is no current conflict with the relevant policies.

#### Impact on the Singleton & Cocking Tunnels SAC:

The site lies within the 12km buffer area of the Singleton and Cocking Tunnels Special Area of Conservation (SAC). BENDP Policy ES17 states proposals in such areas must evaluate whether there is potential for an adverse effect to arise to qualifying species associated with the SAC due to loss of suitable foraging habitat and/or the severance of commuting flight lines, such as in the form of mature tree lines, hedgerows and watercourses.

Depending on the level of the likely impact, developments within the buffer area may also require an appropriate assessment as per the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).

Recent case law from the High Court (2023) determined it may be necessary to apply the Habitat Regulations at each stage of a decision (such as at reserved matters stage as well as at the outline). The officer report prepared for the determination of the outline application referred to this issue but did not formally assess the impact stating: "This has not been done due to other concerns with the application but could be carried out on a resubmission application or at appeal." However, despite this being raised in the Council's Statement of Case, the Inspectors decision did not refer to this issue at all and so it is clear that the Habitats Regulations requirements were not carried out at the outline stage.

To this end, the Council has now prepared a HRA Screening Report and has uploaded this to the website. This determines the proposed development will not have any significant adverse impacts on statutorily protected nature conservation sites. The proposal does result in the removal of some sections of hedgerow but this will not result in any adverse impacts on the SAC qualifying species. On this basis, the development is acceptable in terms of the impact on biodiversity and in accordance with the relevant policy.

#### **SUMMARY:**

The principle of nine dwellings on this site has already been established at the outline stage and the reserved matters details submitted in this application accord with the relevant development plan policies as a whole with only a couple of minor conflicts relating to the parking space size and disabled parking provision. It is therefore recommended that the reserved matters be approved, subject to the following additional conditions alongside the conditions previously imposed on BN/99/22/OUT.

#### **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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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.

**CIL DETAILS**

The site is in CIL Zone 3 and is liable for a CIL payment with 25% of the total being allocated to the Parish Council.

**RECOMMENDATION****APPROVE CONDITIONALLY**

1 The development hereby approved shall be carried out in accordance with the following approved plans and documents:

- Location plan 0302 P01.
- Block plan 0303 P01.
- Site Plan 0301 Rev P04.
- Site Plan (Colour) 0300 Rev P04.
- Site Landscape Proposals 1353-1.
- Everest (GA7) Internal Secure Cycle Storage Solution Specification.
- EVA 7.3KW Electric Vehicle Charger Specification.
- Swept Path Analysis Refuse Vehicle (inbound) J32-8246-AT-A01.
- Swept Path Analysis Refuse Vehicle (Outbound) J32-8246-AT-A02.
- Proposed Elevations plot 1 - 0211 P02.
- Proposed Elevations plot 2 - 0221 P03.
- Proposed Elevations plot 2 - 0222 P02.
- Proposed Elevations plot 3 - 0231 P03.
- Proposed Elevations plot 3 - 0232 P03.
- Proposed Elevations plot 4 - 0241 P03.
- Proposed Elevations plot 5 - 0251 P03.
- Proposed Elevations plot 6 - 0261 P03.
- Proposed Elevations plot 6 - 0262 P02.
- Proposed Elevations plot 7 - 0271 P03.
- Proposed Elevations plot 7 - 0272 P02.
- Proposed Elevations plot 8 - 0281 P03.
- Proposed Elevations plot 9 - 0291 P03.
- Proposed floor plans - plot 1 0210 P03.
- Proposed ground floor plan plot 2 - 0220 P03.
- Proposed ground floor plan plot 3 - 0230 P03.
- Proposed floor plans plot 4 - 0240 P03.
- Proposed floor plans plot 5 - 0250 P03.
- Proposed floor plans plot 6 - 0260 P03.
- Proposed floor plans plot 7 - 0270 P03.
- Proposed floor plans plot 8 - 0280 P03.
- Proposed floor plans plot 9 - 0290 P03.
- Proposed double garage plans and elevations - 0215 P02; and
- Proposed single car port plans and elevations - 0216 P02.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1, QE SP1 and T SP1.

2 All activity at the site is to be carried out in strict accordance with the "Arboricultural Survey to BS5837:2012" by Arbtech dated 15/08/24 and the separate Tree Protection Plan also by Arbtech (1844-SYM-XX-ZZ-DR-A-0300-P01).

Reason: To comply with BS5837:2012 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised, and they can continue to enhance the landscape and amenity of the area in accordance with Arun Local Plan policies ENV DM4 and D DM1.

- 3 The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with Arun Local Plan policy D DM1.

- 4 No development above damp-proof course level shall take place unless and until a scheme to demonstrate that the internal noise levels within the residential units will conform to the "Indoor ambient noise levels for dwellings" guideline values specified within Table 4 under section 7.7.2 of BS 8233:2014. Details shall be compiled by a competent acoustician on sound insulation and noise reduction for buildings and shall be submitted to and approved in writing by the Local Planning Authority. The scheme should take into account the correct number of air changes required for noise affected rooms. The works specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To protect the amenity of future local residents in accordance with Arun Local Plan policies QE SP11 and QE DM1.

- 5 No development above damp-proof course (DPC) level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Prior to the first occupation of any dwelling forming part of the proposed development, the applicant/developer shall at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with policy INF SP1 and T SP1 of the Arun Local Plan and in accordance with The Fire & Rescue Service Act 2004.

- 6 The first-floor study and bathroom windows on the rear elevation of plot 9 shall at all times be glazed with obscured glass to a level equivalent to Pilkington Level 3 or nearest equivalent standard and be non-openable below 1.7m above finished floor level / fixed to be permanently non-opening). This arrangement shall be permanently retained thereafter.

Reason: To protect the amenities and privacy of the adjoining dwellings and their gardens in accordance with Arun Local Plan policies D DM1 and QE SP1.

- 7 INFORMATIVE: This permission does not formally discharge any of the drainage conditions imposed on the outline planning permission and separate applications will be required to discharge these. In addition, the applicant should note that this layout has been approved without agreement of the Council's Drainage Engineers and therefore if it subsequently becomes clear that the drainage conditions cannot be agreed due to the layout not providing sufficient space for drainage then a new reserved matters application will need to be submitted as the Local Planning Authority will not be able to agree such changes through the Non-Material Amendment process. Please also note that any future submission to seek a discharge of the drainage conditions must be accompanied by full details in accordance with the guidance and checklist here <https://www.arun.gov.uk/surfacewater>.
- 8 INFORMATIVE: The applicant should note that this layout has been approved without agreement of the Council's Ecologist in respect of the ability to deliver the BNG required by condition 8 on the outline planning permission. If it subsequently becomes clear that the BNG condition cannot be agreed due to the layout not providing sufficient on-site BNG (and if it is not possible to secure it off-site), then a new reserved matters application will need to be submitted as the Local Planning Authority will not be able to agree such changes through the Non-Material Amendment process. You may however be able to provide additional on-site BNG such as additional hedging, planting, and say a wildlife pond through changes to the layout which could potentially be secured by a s96a application.
- 9 INFORMATIVE: All other conditions on the outline that require discharge will require separate applications to be submitted to discharge these conditions.
- 10 INFORMATIVE: The lighting scheme required to be submitted for approval by condition 12 of BN/99/22/OUT should be designed to be sensitive to bats. It is recommended that the scheme be designed to be in accordance with GN08 2023: "Bats and Artificial Lighting at Night".
- 11 INFORMATIVE: Following approval of details showing the proposed location of all fire hydrant(s) or stored water supply (in accordance with West Sussex Fire and Rescue Service's Guidance Notes) and prior to the first occupation of any dwelling forming part of the proposed new development you are advised to contact West Sussex Fire and Rescue Service (WSFRS) make them aware of all the fire hydrants for the site and their locations. They can then be operated and tested, their location marked up locally and plotted on the water management system and mapping. This information is then available to all fire crews attending the site, essential for locating the nearest fire hydrants available in the vicinity of a fire without delay.
- Without this information WSFRS would not be aware of any fire hydrants available on the site and lead to valuable time being spent looking for a water supply to keep the fire appliance supplied with water. Without a supply of water people's lives and properties could be put at undue risk in the event of a fire. Fire hydrant information is to be sent to either the Planning Officer or directly to the Water and Access Department, WSFRS on the details given below:  
Frs.waterandaccess@westsussex.gov.uk
- 12 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981 (as amended), with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 13 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat

Conservation Trust on 0345 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.

- 14      INFORMATIVE: The granting of this permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information, please contact the Environmental Health Department on 01903 737555. There shall be no burning of waste or other materials on the site, except in an incinerator.
- 15      INFORMATIVE: The site is located within the Source Protection Zone 1c & 2c for the local Public Water Supply Source. SPZ1c & SPZ2c relates to subsurface activity only, where the Chalk aquifer is confined and may be impacted by deep drilling activities. Subterranean activities such as deep drainage solutions and/or piling may pose a risk to groundwater quality at the local public water supply source. The confined aquifer is of high sensitivity and consequently all measures to prevent pollution during and post construction are required in order to safeguard the local public water supply. At the Outline stage, Portsmouth Water requested conditions regarding the use of piled foundations, but this was not included by the Inspector.