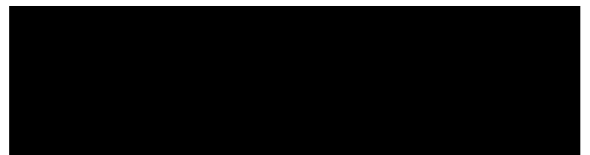


Application Statement

This document accompanies the Amended Application, following refusal of Planning Application BN/46/20/PL.

An Appeal has also been raised against the refusal of BN/46/20/PL and was accepted by the Planning Inspectorate as valid on 27th November 2020 (ref: APP/C3810/W/20/3262770).

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2. Application Statement

2.1 Application Amendments in Summary

The Amended Application has added merit through 5 key factors, some are changes to the Application detail, others are changes to the context within which a determination would be made:

1. The changes that have been made to the Application's Design by way of Materials & Finishes, and the positive negotiation through conditions the Applicant seeks in this area,
2. The landscaping and planting that the applicant is proposing on the Western boundary of the Proposed Site, and the positive negotiation through conditions the Applicant seeks in this area.
3. The change in Housing Land Supply since determination on BN/46/20/PL, falling from 3.7 to 2.9.
4. The recent history of Conditional Approvals in the vicinity for Applications outside of the BUAB – most notably BN/50/20/PL West of the Proposed Site.
5. The Emerging Neighbourhood Plan which would result in land to the West of the Proposed Site being developed with some 70 new properties, the first 42 of these having been approved by the LPA on 25th November 2020 (BN/50/20/PL).

The first two items of amendment are specifically intended to address the LPA's concerns over visual prominence of the proposed development from the West. In both these the Applicant is seeking a better demonstration from the LPA with regard to their Article 35 responsibilities - to discuss possible remedies for refusal prior to determination.

Materials & Finishes

While we have provided photographic evidence that the original application's proposed external materials & finishes were consistent with other properties in the immediate vicinity – see *“3.1 Properties in the Vicinity”* – we are proposing a change in materials which would reduce the visual prominence of the design with respect of the gables.

New elevations are submitted with the Amended Application. These indicate the upper approx. 4.5m of the gables (total height to ridgeline 7m) clad in materials we would propose to agree with the LPA by way of conditions.

Landscaping & Planting

While we have provided photographic evidence that the site is virtually invisible from the West (and all other directions) with photographs from within the site (see *“3.2 Photography – Views from within Proposed Site”*) and photographs external to the site (see *“3.3 Photography – External Views of Proposed Site”*) we would propose to agree landscaping and planting schemes along the Western boundary through conditions, so that the LPA can be further reassured on the points of visual prominence of the site from the West.

At a minimum, we would propose to plant a new, traditional hedgerow along the Western boundary comprising Hawthorn, Blackthorn, Dog rose and Field maple trees – interspersed with a selection of traditional specimen trees (such as Hazel, Yew and Common Beech).

Cycle Store - Site Plan Notation

An outbuilding has been clearly marked as the location of a cycle store on the Site Plan. The storage had been accommodated for in the original Application, the Plan had not adequately marked the outbuilding.

Package Treatment Plant

This was under consideration as part of the necessary drainage plan. However, given the issues recently emerging relating to Southern Water's network capacity, the Amended Application proposes the use of a Package Treatment system as opposed to connection to the sewerage mains.

First Floor Plan Changes

There is a minor change to the layout/plans for the first floor. The changes are limited to the Master Suite.

2.2 History leading to Amended Application

This section sets out the history & sequence of events leading up to the Amended Application. It provides valuable context for the Amended Application.

a. Pre-Application PAA/98/19

During 2019, a Pre-Application was submitted to the LPA for a 4 bedroom detached house on land to the Northern end of the plot of Poachers, Eastergate Lane (postcode PO20 3SJ / Google Maps search 'N50.847336, W0.653437'). At the time, the Housing Land Supply was at 4.7 years.

On 26th October 2019 we received the outcome of this Pre-Application – likely refusal on the grounds the proposed site was outside the Built Up Area Boundary. No other reasons for likely refusal were suggested.

b. Neighbouring Application BN/121/19/PL

In late November 2019 the next-door-but-one neighbour, 70m to the East along Eastergate Lane and also outside of Built Up Area Boundary, submitted an application for a 4 bed detached house within their existing site curtilage.

On 5th March 2020 a Conditional Approval was granted. NPPF Paragraph 11(d) was applied to the decision to approve – at the time the Housing Land Supply had fallen to 3.7 years.

c. Application Submitted - BN/46/20/PL

Based on the Pre-Application response only relating to the Built Up Area Boundary - and the Conditional Approval received by our neighbours with BN/121/19/PL where NPPF Paragraph 11(d) was applied while Housing Land Supply was 3.7 years - we submitted a Planning Application on 6th May 2020 which was accepted as valid on 11th May 2020.

d. Neighbouring Application BN/50/20/PL

On the 7th May 2020, another local Planning Application was submitted, this was for 42 houses on equestrian land to the West of the Proposed Site - West side of Fontwell Avenue, some 130m from the Proposed Site for BN/46/20/PL and again outside of the BUAB.

e. Presentation to the Barnham & Eastergate Parish Council

On the 2nd June 2020, the Applicant presented the BN/46/20/PL Planning Application to the Barnham & Eastergate Parish Council. It was presented as a Windfall Site supporting Multi-generational Living. This presentation resulted in a 'No Objection' representation to the LPA.

f. Decision Notice BN/46/20/PL

On 24th July 2020 (outside the Statutory Decision Period), a Decision Notice of Refusal was issued by the LPA under the delegated powers of the Planning Officers. There were two points in the Reasons for Refusal – the first was consistent with the Pre-Application response - although Housing Land Supply was now down to an all-time low of 2.9 years, NPPF paragraph 11(d) did not carry the decision due to the second reason (see below) which had not been presented or suggested in the earlier Pre-Application response (PAA/98/19).

1. The development would result in the introduction of a residential use outside of the built up area boundary which would result in the future occupants being reliant upon private motor vehicle for day-to-day needs; contrary to paragraph 8 of the National Planning Policy Framework and Policies SD SP2 and C SP1 of the Arun Local Plan and Policies H3 and H4 of the Made Barnham and Eastergate Neighbourhood Development Plan.
2. The development in the countryside location fails to respect the established grain and pattern of development in the locality. This results in a building of visual prominence which demonstrably harms the undeveloped countryside character of the locality; contrary to Policies D SP1 and D DM1 of the Arun Local Plan and Policies ES5, ES6 and H4 of the Barnham and Eastergate Neighbourhood Development Plan.

g. Follow-Up Discussion / Post-determination Meeting with Planning Case Officer

On 2nd September 2020, a virtual meeting was held with the Planning Case Officer at the LPA. The discussion was centred around BN/46/20/PL Refusal Reason 2 and related content within the Officer's Report. This virtual meeting informed the changes in the Amended Application.

h. Emerging Neighbourhood Plan

During October 2020, we obtained detail of the new, Emerging Neighbourhood Plan, which, in addition to the 42 houses covered by application BN/50/20/PL, proposes a further 28 house development immediately West of the Proposed Site. When combined, these developments place 70 new houses immediately West of the Proposed site, both of which clearly challenge many of the grounds under which the LPA refused application NB/46/20/PL.

i. Application BN/50/20/PL – Conditionally Approved

At the DCC meeting on 25th November 2020, this application for 42 houses outside the BUAB and West of the Proposed Site was Conditionally Approved.

j. Application AL/64/20/PL - Conditionally Approved

At the DCC meeting on 25th November 2020, this application for 8 houses outside the BUAB was also Conditionally Approved.

2.3 Response to BN/46/20/PL Refusal Reasons

The Amended Application contains changes – as listed in “2.1 Application Amendments in Summary” – which were developed following a Virtual Meeting with the Planning Case Officer to discuss the Decision Notice and Refusal of BN/46/20/PL.

However, there are other details within the BN/46/20/PL Refusal Reasons that deserve a response, so that there is no simple repeat in outcome relating to areas where the Application has not been changed. These points also form – in part – the basis of the Appeal, ref: APP/C3810/W/20/3262770.

The Decision Notice Refusal Reason 1 stated:

*The development would result in the introduction of a **residential use outside of the built up area boundary** which would result in the **future occupants being reliant upon private motor vehicle for day-to-day needs**; contrary to **paragraph 8 of the National Planning Policy Framework and Policies SD SP2 and C SP1 of the Arun Local Plan and Policies H3 and H4 of the Made Barnham and Eastergate Neighbourhood Development Plan.***

Response Points:

1. Contrary to **Paragraph 8 of NPPF**: Paragraph 8 of the NPPF sets sustainability objectives for the Planning System not individual applications. NPPF Paragraph 9 forbids the application of the planning system sustainability objectives to individual development proposals.
2. **Sustainability & Built Up Area Boundaries**: High Court and Appeal Court judgements challenge the direct and automatic association that any development outside a Built Up Area Boundary (BUAB) equates with unsustainable development.
3. **Sustainability**: By misinterpreting NPPF Paragraphs 8 & 9 the Officer's Report misjudged the sustainability status of the original application. The actual contributions to genuine Sustainability of the district and its local strategic planning system, being offered by the proposal, would include:

Economic

Much more than the transient economic input created during construction, the proposal transforms previously developed land from a garden, that has provided no benefit to the district and its population for more than 20 years, into a 3-generational home that will create an opportunity for 2 elderly parents to continue living independently with family support rather than district and county council support and for 2 highly skilled and highly paid IT executives to continue to live and work within the district, spending much of their substantial income within that district. The proposal would also release a large 6-bed dwelling which could attract further highly valued executives to the district.

Social

The Officer's Report ignored the principal reason for building the proposed property, which is to create a multi-generational home that can provide ground floor accommodation for retired parents that can no longer easily manage stairs and may need wheelchair access and other assistance in future years.

The proposal will also ensure that elderly parents can remain an integral and valuable part of an extended family. The proposal thus minimises the likely future burden on health and welfare services.

Multi-family households (consisting of two or more families) were the fastest growing household type over the last two decades to 2019. They grew by three-quarters from 170,000 in 1999 to 297,000 households in 2019, a statistically significant increase. NPPF Paragraph 61

requires local planning policies to reflect the growing need for multi-generational homes. In 2019, ADC managed to issue their first consultation document on this subject.

The proposal as a Multi-generational development was acceptable to the Parish Council when presented, as it aligns to their **Policy CLW1** of the Made Neighbourhood Plan – supporting independent living of the elderly and less physically able.

Environmental

The proposal site is absolutely not an “*existing greenfield site*”. The glossary of terms in the NPPF clearly identifies domestic gardens within the curtilage of a building outside the built up area boundary to be “*previously developed or brownfield land*” This was confirmed by the Court of Appeal (EWCA Civ 141) in 2017. Paras 84 and 117 of the NPPF specifically encourage the use of previously developed land, beyond the boundaries of existing settlements, for housing.

The proposal site contains over 100 large mature trees which will ensure that the finished development, utilising solar panels and air-source heat pump with no use of fossil fuels, will be Carbon Negative. This is a very considerable environmental factor matched by very few other developments within the district.

The simplistic association of being outside the Built Up Area Boundary, distance to and ease of access on foot to shops and alleged consequent increased car usage, with associated damage to the environment ignores the growing use of home delivered shopping, working from home, the rapid growth in the use of electric cars as well as the use of cycles and is substantially out of date.

4. **Sustainability & BUAB:** Appeal Court judgements and the NPPF confirm that the proposal site itself - and the land surrounding the proposal site - is Previously Developed Land, also known as Brownfield Land and the NPPF encourages (Paragraphs 84 & 117) the use of this land for housing.
5. **Sustainability & BUAB continued:** The proposal location would be no more reliant on the private motor vehicle for day-to-day needs than large areas of the existing Built Up Area Boundary.
6. **Sustainability & BUAB continued:** The LPA continues to approve new developments, nearby and further away, large and small, outside the BUAB, with the same issues of access to amenities e.g. planning application BN/50/20/PL for 42 dwellings on land immediately West of the A29 Fontwell Avenue (130m from this proposal site), BN/121/19/PL (70m to the East of the proposed site) & AL/64/20/PL, 8 houses on Hook Lane Aldingbourne, AL/64/20/PL.
7. **Sustainability & BUAB continued:** Within days of the BN/46/20/PL Decision Notice being issued, the LPA's reports on Planning Applications began to state a Housing Land Supply at an all-time low of 2.9 years.

At best, when the BN/46/20/PL Decision Notice was issued, the HLS was 3.7 years – either figure reduces the weight of policy SD SP2 of the Arun Local Plan (ALP) and tilts the balance towards presumption in favour of sustainable development – ref. NPPF Paragraph 11.

The HLS & tilted balance was engaged in the approval of a very similar proposal (BN/121/19/PL) only 70m away, BN/50/20/PL some 130m away & AL/64/20/PL in Hook Lane - all sites being outside the built up area boundary, with near identical access to amenities and, in the case of BN/50/20/PL, much greater negative visual impact.

8. **Sustainability & BUAB continued:** With regard to other referenced Policies:

Policy SD SP2 (Arun Local Plan)

- Policy SD SP2 (ALP) simply states “*Built Up Area Boundaries are defined for the main towns and villages in the District and shown on the Policies Maps. Development should be focused*

within the Built Up Area Boundaries and will be permitted, subject to consideration against other policies of this Local Plan."

- While this Policy lacks detail, it significantly uses the words '*should be focussed*' rather than e.g. '*will only be permitted*'. The policy does not forbid development outside the BUAB, it merely states that it should be focussed within it for main towns & villages.
- The policy is silent regarding development away from the main towns and villages and makes no mention of private motor vehicles "*for day-to-day needs*".
- Assuming the Policy is attempting to support sustainability, High Court and Appeal Court judgements challenge the direct and automatic association of being outside the Built Up Area Boundary with being unsustainable development.

Policy C SP1 (Arun Local Plan)

- Policy C SP1 of the Arun Local Plan provides a list of 6 types of development that will be permitted outside the BUAB, including "*in accordance with other policies in the Plan which refer to a specific use or type of development*" ... and also makes no mention of private motor vehicles for day-to-day needs.
- Given Eastergate Lane has over 100 developments along its 2,000m length (1 every 20m on average) perhaps it is more accurately described as a Semi-Rural or Urban Fringe, being progressively squeezed between the 3 continuously expanding Built Up Area Boundaries that surround it. Other relevant policies within the Arun Local Plan, not mentioned in the Decision Notice include:

7 Settlement Structure & Green Infrastructure Managing the 'Rural Urban Fringe'

7.2.13 Given the number and complex pattern of settlements both in the District, and in neighbouring authorities, the rural urban fringe is a particularly important asset and serves functions for both rural and urban areas. It is often an area of mixed land use with many competing pressures for change. The areas are such that there is potential to make better use of them in order to meet the wider objectives of the Plan.

- This is clear recognition that there is potential to make better use of areas of the rural / urban fringe "*to meet the wider objectives of the Local Plan*".

4 Vision & Objectives:

By 2031 Arun will be a safer, more inclusive, vibrant and attractive place to live, work and visit. Arun's residents will be healthier and better educated, with reduced inequalities between the most and least affluent.

4.18 The District's smaller settlements and rural areas will retain their character with limited new development to meet their needs.

- This is an extract related to the Villages within Arun and "*.. limited new development to meet needs*" is specifically detailed.

9. Sustainability & BUAB continued: Policy H3 of Barnham & Eastergate Neighbourhood Plan.

- Policy H3 relates to Housing Mix - H3 is not relevant to an Application for a single unit.
- The Application was presented to the Parish Council via Virtual Meeting and the Parish Council submitted a 'No Objection' representation to the LPA
- Policy H3 makes no mention of the "*Built Up Area Boundary*" or "*use of private motor vehicles for day-to-day needs*".

10. **Integration into Surroundings:** Policy H4 of Barnham & Eastergate Neighbourhood Plan.

- Policy H4 of the Barnham and Eastergate Neighbourhood Development Plan covers the issue of integration of new housing into its surroundings. Being a single unit, the quoted Design Council requirements do not apply.
- The supplementary detail provides evidence that the proposed development is entirely similar to many of the nearby built properties - and their natural surroundings - in size, scale and appearance.
- The proposal site is also virtually invisible from all surrounding areas.
- The policy makes no mention of the built up area boundary or private motor vehicles for day-to-day needs
- The Application was presented to the Parish Council via Virtual Meeting and the Parish Council submitted a 'No Objection' representation to the LPA

The Decision Notice Refusal Reason 2 stated:

*The development in the **countryside location** fails to respect the **established grain and pattern** of development in the locality. This results in **a building of visual prominence** which **demonstrably harms the undeveloped countryside character of the locality**; contrary to **Policies D SP1 and D DM1** of the Arun Local Plan and **Policies ES5, ES6 and H4** of the Barnham and Eastergate Neighbourhood Development Plan.*

Response Points:

11. **Established Grain & Pattern:** We can see no established grain and pattern of development in the locality of the proposal – See Appendix “4.4 Figure Ground Plan of vicinity” for a Figure Ground Plan - we are also not aware of any requirement that a proposal outside the Built Up Area Boundary should respect any particular grain and pattern of development.

Whatever established grain & pattern that the LPA may believe to exist, in the locality is being dramatically changed by approval of BN/50/20/PL as well as the Emerging Neighbourhood Plan supporting another 28 houses on land immediately West of the Proposed Site. We saw no mention of grain or pattern in the Officer's Report for BN/50/20/PL.

12. **Visual Prominence & Demonstrable Harm:** The proposed dwelling would not be visible from any public areas being surrounded by trees of a similar or greater height to its roof ridge and as such cannot have “visual prominence” or inflict “demonstrable harm”.

The Officer's Report on BN/46/20/PL included 7 separate statements confirming the high level of screening of the site provided by existing vegetation meaning that the proposed dwelling would not be visible from any public area and as such cannot have “visual prominence” or inflict “demonstrable harm”.

Photographic evidence in Appendix “3.2 Views from within Proposed Site” & “3.3 External Views of Proposed Site” further support the case against the points of “visual prominence” & “demonstrable harm”.

Despite all of this, the Amended Application includes proposed changes to external materials and finishes as well as landscape and planting – all proposed to be agreed with the LPA through conditions and all aiming to mitigate against the LPA's concerns in this area.

13. **Countryside Location & Undeveloped Countryside:** The proposed site and all its surroundings are Previously Developed Land aka Brownfield Land which challenges the assertion that this is a locality of “undeveloped countryside character”.

The approval of BN/50/20/PL and the additional 28 houses directly to the West of the proposed site in the Emerging Neighbourhood Plan also materially change the surroundings of the site, it absolutely cannot be claimed to be “undeveloped Countryside”.

The full extent of current and planned development surrounding the proposed site (existing development, approved development or development being proposed in the Emerging Neighbourhood Plan) can be seen in Section 4, in particular we draw attention “4.1 - Vicinity scale map showing Proposal Site on Eastergate Lane in red, nearby developments in blue”

14. **Demonstrable Harm:** The proposed dwelling, as well as being largely invisible from areas outside the proposal site, was in keeping with the locality being of similar roof ridge height to 6 of the 8 closest dwellings and materials that were in keeping with several properties in the vicinity – see “3.1. Properties in the Vicinity” – however, it is hoped that the amendments on Materials & Finishes as well as Landscaping, already detailed in section 2.1 above, address this area to the LPA’s satisfaction.

15. With regard to referenced Policies:

Policy D SP1 (Arun Local Plan)

- Policy D SP1 of the Arun Local Plan covers the issue of design and identifies 20 key aspects of design but does not include either “*established grain and pattern of development*” or “*visual prominence*”.
- We assert that the 20 aspects from policy D SP1 are well respected in the proposed design: “*make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details*”.
- We can establish beyond reasonable doubt that the proposal site is virtually invisible from all areas outside the site.
- We have evidence that there is no established grain and pattern of development in the locality, nor any written requirement we can find that planning approval is conditional on respecting a particular grain and pattern or where any established grain and pattern would be recorded.
- Likewise, we can evidence that the proposed dwelling, apart from being virtually invisible from outside the site, is either the same height or lower than virtually all of its surroundings, whether built or natural – and therefore cannot be “*visually prominent*”.

Policy D DM1 (Arun Local Plan)

- Policy D DM1 of the Arun Local Plan covers 15 separate aspects of “*Form and Design Quality*”. Having no indication of the aspects of the proposal that are contrary to which requirements, it is difficult to confirm or deny the allegations.
- D DM1 aspects 6, 9, 10, 11, 12 & 13 cannot be applied to single unit developments and we believe we can evidence supplementary material showing conformity with D DM1 design aspects; 1, 2, 3, 4, 5, 7, 8 & 14.
- To our knowledge no assessment has been carried out as to the compliance of the proposal with the Arun District Design Guide, so the status of aspect 15 remains unstated in the Officer’s Report and unknown to the Applicant.

Policy ES5 of the made Barnham & Eastergate Neighbourhood Plan.

- Policy ES5 covers the issue of Quality of Design and again the decision notice provides no detail as to which aspects of the proposal contravene which requirements of the policy.
- Policy ES5 makes no mention of “*grain and pattern*” of development or “*visual prominence*”.

- To our knowledge the “*Eastergate Design Guide*” has not yet been adopted by Arun District Council. We believe that our photographic appendix provides evidence that the proposed design is in keeping with the typical housing design of the area.
- The Application was also presented to the Parish Council via Virtual Meeting and received a ‘No Objection’ representation. On this basis, the Applicant sees no material issue.

Policy ES6 of the made Barnham & Eastergate Neighbourhood Plan.

- ES6 covers the richness of varied design character but makes no mention of “*grain and pattern of development*” nor “*visual prominence*”.
- We believe that our supplementary materials has provided ample evidence that the proposal presents distinctive design character that is in keeping with the local design vernacular.
- The Parish Council recognises that the locality has rich and varied character as well as a range of design styles. The Planning Application was presented to the Parish Council – including the design and the choice of materials and finishes – and this resulted in a representation of ‘No Objection’. On this basis, the Applicant sees no material issue.

Policy H3 of the made Barnham & Eastergate Neighbourhood Plan covered previously.

Appendices

3 Photography

3.1 Properties in the Vicinity

Examples of properties in the immediate locality with Materials / Finishes / Double Gable features similar to the BN/46/20/PL Application.



Existing Property on Poachers, South of Proposal Site



'Bennetts' across Eastergate Lane from Proposed Site



“Lyndhurst”, junction of Eastergate Lane & Fontwell Avenue



“Lyndhurst”, junction of Eastergate Lane & Fontwell Avenue

Examples of Visually Prominent properties on South Side of Eastergate Lane – both recently expanded by as much as 60%.



Ryburn Farm - Located 400m to the East of Proposed Site



Another - Located 300m to the East of Proposed Site

3.2 Photography – Views from within Proposed Site

Photographs from within the proposed site – showing the dense vegetation on all sides, all of which contribute to the lack of visual prominence from outside of the site.



From proposed site towards East – dense vegetation to above proposed property's 7m ridge height



From proposed site towards North – dense vegetation between site & caravan park



From proposed site towards South West – including sightline down driveway to Eastergate Lane



From proposed site towards West – from where LPA was most concerned about visual prominence

3.3 Photography – External Views of Proposed Site

Views towards the Proposed site from External Viewpoints.

Photographs / Viewpoints from Fortwell Avenue

- A : Due West of site, 160m equates to a 2.5° angle to ridgeline. Photo A.
- B : +25m North, 155m from site equates to a 2.6° angle to ridgeline. Photo B.
- C : +25m North, 148m from structure equates to a 2.7° angle to ridgeline. Photo C.
- D : +25m North (Start of Wandleys Lane Junction), 143m from structure equates to a 2.8° angle to ridgeline. Photo D.
- E : N end of Wandleys Lane Junction, 143m from structure equates to 2.8° angle to ridgeline. Photo E.



Map & Key for Views towards the Proposed Site from external viewpoints



Photo A – Due West & 160m from Proposed Site



Photo B – West & 155m from Proposed Site



Photo C –West & 148m from Proposed Site



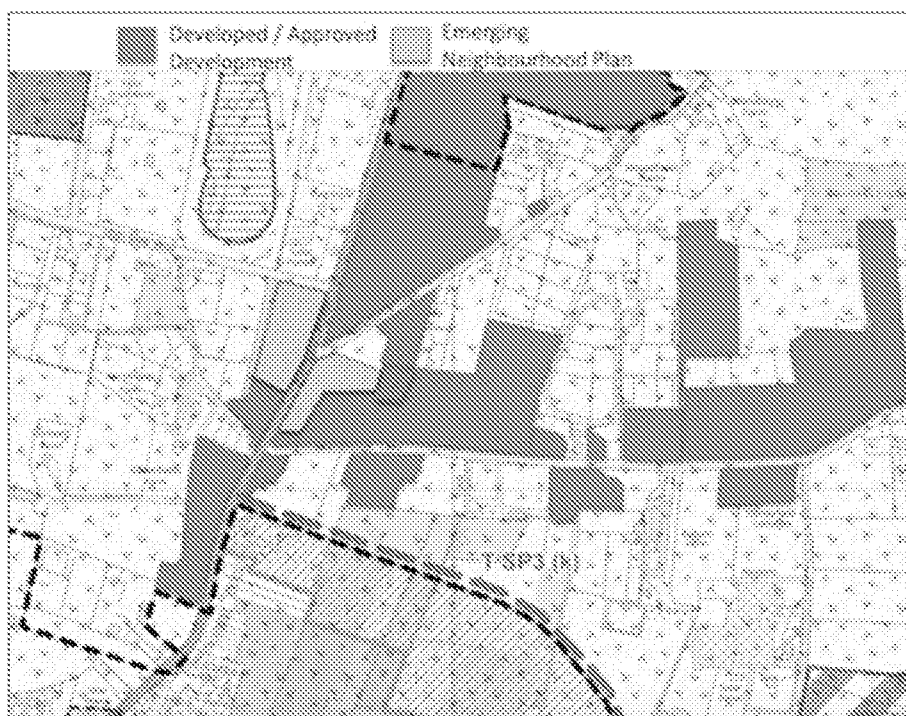
Photo D – West & 143m from Proposed Site



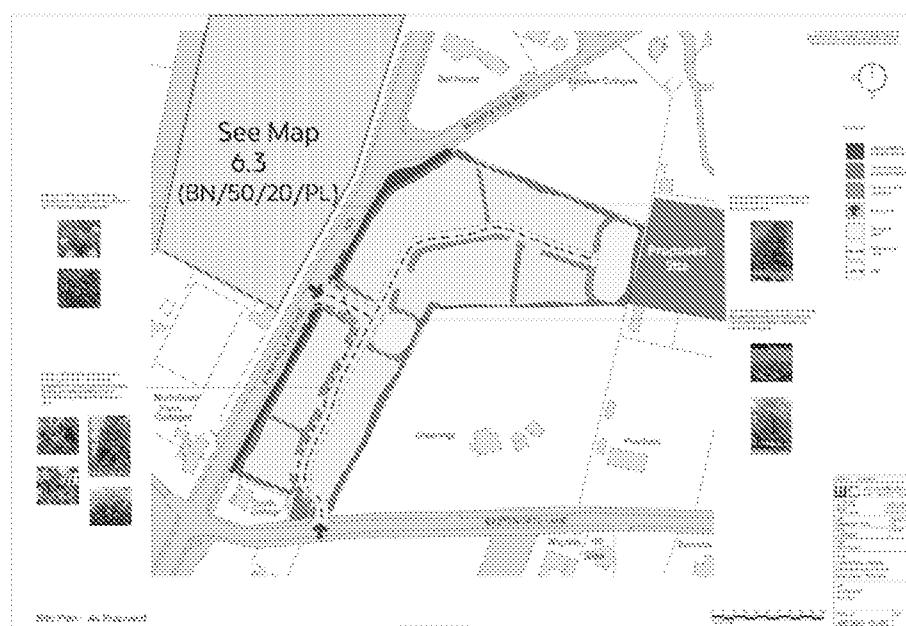
Photo E – West & 143m from Proposed Site

4. Maps

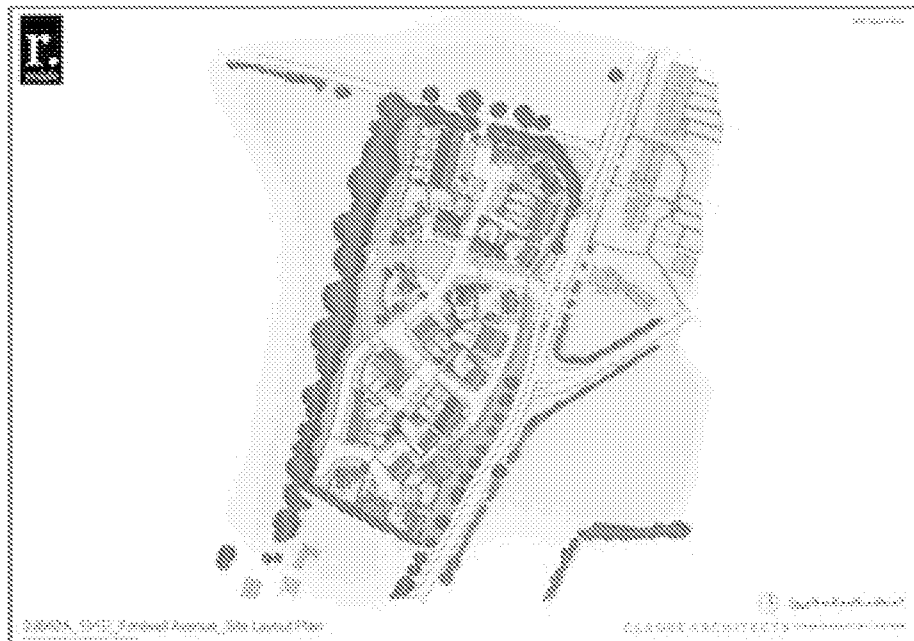
Various Vicinity Maps showing extent of development



- 4.1 Vicinity scale map showing Proposal Site on Eastergate Lane in red, nearby development in blue and BUAB as black chain dotted lines



- 4.2 Larger scale vicinity map showing Proposal Site (red) & 28 house development proposed in the Emerging Neighbourhood Plan on Nova Paddocks, North of Spode Cottage, directly West of the Proposed Site



- 4.3 Additional vicinity scale map showing the 42 house development proposed in Emerging Neighbourhood Plan and recommended for approval by the LPA as BN/50/20/PL, to be determined by the end of November 2020 – 130m west of the Proposal Site



- 4.4 Figure Ground Plan of vicinity (Grain & Pattern) showing the lack of any current Grain or Pattern of development.