

Recommendation Report for Planning Permission

REF NO:	BN/42/21/PL
LOCATION:	Folly Foot Farm Fontwell Avenue Eastergate PO20 3RU
PROPOSAL:	Demolition of existing dwelling, garage & commercial buildings & erection of replacement dwelling, garage & commercial building (Use Class B1 (E) B8) with associated vehicular accesses from Eastergate Lane & hard and soft landscaping. This site is in CIL Zone HSP2 (Zero Rated) & is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes the 'demolition of existing dwelling, garage and commercial buildings and erection of replacement dwelling, garage and commercial building (Use Class B1 (e) B8) with associated vehicular access from Eastergate Lane and hard and soft landscaping. This site is in CIL Zone HSP2 (Zero Rated) and is a Departure from the Development Plan.
SITE AREA	0.9331 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	0.93 dph
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The application site is well screened along Eastergate Lane to the north of the site boundary where overgrown vegetation at a low level provides low level screening to the site. Orchard style planting is provided on land to the east of the application site which provides effective screening of neighbouring parcels to the east. Similarly, planting along the boundaries to the west of the application site also provide effective screening of the neighbouring property (Lyndhurst) to the west. The site is also well screened to the south, as existing.
SITE CHARACTERISTICS	The application site comprises a mixture of residential land, existing former apple store buildings, a carpet warehouse building and existing residential dwelling (known as Folly Foot Farm House). The majority of the site comprises open fields which are within the same ownership as the applicant. Folly Foot Farm House comprises a defined residential curtilage to the north which provides for the open space attached to the residential use of the dwellings.

CHARACTER OF LOCALITY

To the south western portion of the site are a mixture of buildings which are agricultural in appearance.

The application site falls within a countryside locality outside of the defined Built-Up Area Boundary. However, to either side of Eastergate Lane and Fontwell Avenue are singular residential plots that fall upon either side of the roads. These properties are well set back from the road with extensive front gardens and sufficient landscaping, which prevents any urbanising effect from this linear ribbon development.

To the south of the site is the SD5 Barnham, Eastergate and Westergate (BEW) development site. The re-aligned A29 road will run off Fontwell Avenue to the west and along the line of the existing Folly Foot House, running parallel with the southern boundary.

Therefore, whilst the locality is one of a rural area with some residential development, the nature, ambience and character is one that will change through the delivery of the Local Plan, in a planned manner.

RELEVANT SITE HISTORY

EG/57/11/CLE	Application for a Lawful Development Certificate for an Existing use for warehouse storage & distribution	Approve 07-02-12
EG/15/05/	Conversion of redundant apple store to provide 4 small business units (re-submission of EG/19/04).	Withdrawn 04-04-05
EG/19/04/	Conversion of redundant apple store to provide 4 small business units.	Refused 05-04-04

Having reviewed the planning histories detailed, the grant of the Certificate of Existing Lawful Use confirmed that commercial building comprises 281 square metres of B8 carpet warehouse use.

For clarity, the permitted use does not comprise an open B8 storage and distribution use. Further, the Council does not have any evidence detailing the presence of any lawful B1/Class E uses on the site within the planning histories. Whilst the Council are aware that there maybe an ancillary office use present on the site, this does not formally benefit from any consents from the Local Planning Authority. Similarly, no Lawful Development Certificates have been submitted to regularise any such uses.

On the basis of the above, the baseline of this assessment comprises the existing use of the commercial buildings to comprise 281 square metres of B8 carpet warehouse use.

REPRESENTATIONS

Barnham & Eastergate Parish Council:

Current application gives no indication as to what the replacement commercial buildings will be used for. Currently we know that a carpet business is operated from the premises which involves significant HGV movements on the site which using the current access via Fontwell Avenue is acceptable. However, the new application is proposing access to these buildings to be via Eastergate Lane and therefore if the usage of the buildings is still going to require HGV vehicle access the Committee strongly object as Eastergate Lane is unsuitable for such movements. It is not wide enough. Would want access to be via the new A29 if HGV access is required and not from Eastergate Lane.

Independent report required for the specific site to be undertaken and submitted as the current reports submitted that were prepared to support the wider A29 realignment scheme are considered totally unacceptable with much of the content being irrelevant to the specific site.

Six letters of objection were received in relation to the following matters:

- Principle of development
- Quantum of new 5 unit commercial park exceeds the existing quantum
- Incorrect location for commercial development
- Unfair due to compensation receiving from developers
- Modelling traffic scenarios likely to be inaccurate
- Hours of operation of commercial units
- Noise pollution on neighbouring amenity
- Insufficient access onto Eastergate Lane for commercial
- False statements provided within application submission
- Replacement commercial building does not propose a like for like basis
- Development proposals should be two separate applications
- Commercial units should be accessed off A29
- Development does meet a rural need
- Ambiguity over Biodiversity Net Gain

COMMENTS ON REPRESENTATIONS RECEIVED:

Matters relating to compensation paid for land under separate land agreements do not comprise a material consideration and therefore do not form part of the consideration of this application. Concerns raised in respect of the scheme should comprise two separate applications are not relevant. The onus is upon the District Council to determine any applications submitted to them. All other matters are addressed in the subsequent sections of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways: Further information required in relation to:

- Confirmation if the existing vehicle access is to be retained/removed
- Demonstrate the existing layby on a revised plan
- Clarification on the amount of parking spaces for the proposed commercial unit

CDC Ecology: Confirmed bat roosts on site. If any works are done to trees, further surveys will be required. Lighting scheme for site will need to take into account presence of bats in the nearby area.

Any demolition works should be undertaken outside of bird nesting season and checks will need to be undertaken prior to building work being undertaken.

Site has high potential for breeding barn owls. Further surveys on site are recommended prior to determination.

Full mitigation plan required prior to determination detailing timings of works, translocation plans, details of receptor sites and post development monitoring and safeguarding.

ADC Greenspace: No objection subject to subsequent submission of landscape details.

ADC Drainage: No objection subject to imposition of conditions.

ADC Environmental Health: No objection subject to imposition of conditions.

Southern Water: No objection.

COMMENTS ON CONSULTATION RESPONSES:

These matters are considered in full in the following sections of this assessment.

POLICY CONTEXT

Designation applicable to site:

- Outside of Built-Up Area Boundary
- H SP2c BEW Strategic Development Site
- T SP3(k) Re-aligned A29
- Sharp Sand and Gravel Minerals Safeguarding Area (MSA)

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
EMPDM1	EMP DM1 Employment Land: Development Management
EMPSP1	EMP SP1 Strategic Economic Growth
EMPSP3	EMP SP3 Strategic Employment Land Allocations
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HSP1	HSP1 Housing allocation the housing requirement

HSP2	H SP2 Strategic Site Allocations
HSP2C	H SP2c Inland Arun
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TDM2	T DM2 Public Parking
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans 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 Barnham and Eastergate Neighbourhood Plan (2014-2029) was made in July 2014. Relevant NP policies have been taken into account and are addressed in the below report.

The revised Barnham and Eastergate Neighbourhood Plan (2019-2031) has reached Regulation 15 stage. However, this has not been scrutinised formally by an appointed Examiner. It is therefore afforded limited weight at this stage.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

"If regard is to be had to the development plan for the purpose of any determination to be made under

the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal fails to comply with relevant Development Plan policies in that the proposed Development is contrary to the Development Plan policies. Whilst there are material considerations that could outweigh the conflict with Development Plan policies (including the release of the land for the purposes and delivery of the re-aligned A29), in the absence of a legal agreement, the Council would not have sufficient, adequate or precise control to ensure the release of this land.

Therefore, in the absence of being able to achieve sufficient control over the release of land through an appropriate S106 Agreement, the material considerations are unable to given sufficient weight at this time.

OTHER MATERIAL CONSIDERATIONS

It is considered there are material considerations that could outweigh the conflict with Development Plan policies which comprise:

- The release of the land for the purposes and delivery of the re-aligned A29)

However, in the absence of a legal agreement, the Council does not have sufficient or adequate control to ensure the release of this land. Therefore, in the absence of being able to achieve the release of land through an appropriate S106 Agreement, the material considerations are unable to given overriding weight at this time.

The Council notes their current 5 year Housing Land Supply position which typically comprises a material consideration in proposals relating to new residential development. However, the proposal does not result in the net increase of residential units. Further, for the reasons detailed in this report, specifically in relation to unknown harm to the Singleton and Cocking Tunnels SAC, paragraph 11(d)(l) (footnote 7) is enacted and the presumption in favour of sustainable development does not apply.

CONCLUSIONS

PRINCIPLE OF DEVELOPMENT RESIDENTIAL:

The application proposes new residential development outside of the existing defined Built-Up Area Boundary (BUAB). Policy SD SP2 (ALP) requires development to be focussed within the Built-Up Area Boundaries.

Policy C SP1 (ALP) makes clear that outside the BUABs development will only be permitted under the circumstances detailed in criteria (a) to (f). The proposed residential use of submitted within this application does not fulfil the criteria.

The proposed residential development is submitted as a replacement dwelling that would be lost to the delivery of the re-aligned A29 project. The A29 project now benefits from planning permission under WSCC/052/20 which was granted by West Sussex County Council Planning Committee on 30 June 2021. This therefore comprises a material consideration of which the weight to be attributed to this in detailed below.

Whilst the principle of the delivery of the A29 is considered as an overriding consideration, the applicant has not provided any draft legal agreement to secure the demolition of the dwelling and replacement dwelling within any detailed timescales.

To comprehensively encompass the order of events, requirements, serving notices and full enforcement powers, conditions would not be precise enough. The Local Planning Authority has sought legal advice from their solicitors. This advice concludes that this level of detail can only be achieved through the use of a S106 legal agreement.

The onus falls firmly upon the applicant to provide the necessary mitigation required to secure their development. In this instance, the applicant has suggested a condition that solely requires the demolition of the existing dwelling within a specified period of time, following the completion of the replacement dwelling. The Local Planning Authority does not consider such a condition to be precise enough to secure the land required for the A29 and make this land available for these purposes. Further, the enforceability of a S106 agreement is far more precise in nature, than in comparison to the use of a condition.

For the reasons set out in further detail in this Report, no legal agreement has been provided to secure any weight to this material consideration. Therefore, the Council is unable to attribute any weight to this.

Further, Policy H SP2(c)(h)(l) makes clear that 'in the event that any landowner delays the delivery of the route and/or does not reasonably make available part or all of the route then Arun District Council will utilise Compulsory Purchase Order powers to the delivery the entire route.

In this instance, we are aware that on the date of this assessment, the applicant is not under any contract for the developer delivering the A29 road. Whilst separate contracts are not the premise of the planning system to regulate, in this instance, the applicant has given no firm guarantee that the grant of permission will result in the land being made available, as required by Policy H SP2 above.

Therefore, the Council possesses the legal powers to deliver the re-aligned A29 if they cannot be absolutely satisfied that an earlier cannot be secured. In this instance, in the absence of a corresponding legal agreement, the proposed development would not guarantee the delivery of the re-aligned A29 and the Council possesses separate powers to secure the public benefits aside from this development proposal.

On this basis, the conflict with the Development Plan policies SD SP2 and C SP1 remain.

(However, for the record this report should not be inferred that the Council will automatically use its CPO powers. This is an entirely separate decision which needs to be made outside the determination of this application. The paragraphs above set out what the Development Plan says and the current known position and how this information should inform the determination of this application.)

PRINCIPLE OF DEVELOPMENT COMMERCIAL:

Policy EMP DM1(3) (ALP) specifically addresses the relocation and expansion of existing businesses which makes clear that the Council will positively encourage the relocation of existing firms wishing to expand within Arun District.

However, to engage the positive provisions within Policy EMP DM1(3) relies upon the business being an existing business. As detailed in the earlier sections of this report, and detailed in the plethora of third party representations, only 281 sqm comprises an existing lawful business as B8 used for the purposes of a carpet warehouse. Whilst the Council acknowledges some ancillary B1 uses appear to be present on the site, these do not appear to be lawful having reviewed the Council's records and cannot be justifiably relied upon.

Taking the fact that the Council acknowledge that the carpet warehouse business comprises an existing business, Policy EMP DM1(3) supports the relocation and expansion of the existing business.

However, the proposed development seeks for a total quantum of 725 sqm which would represent an increase of c. 61% additional floor space. In addition, the proposed usages do not seek to expand the physical size of the building but also seek to open up the nature of the use from a B8 carpet warehouse to an open B1/E and B8 use.

Turning first to the proposed B1/E usage, Policy EMP DM1(4) is clear that the Council will seek to direct office development to town centres. Further, Policy EMP DM1(6)(a) makes clear that:

'Planning permission will be granted on sites outside of built-up area, provided that the proposal demonstrates:

a. That it is an appropriate sized extension of an existing employment site, or no acceptable alternative can be identified within existing permitted or allocated sites, or within or through redevelopment of existing commercial premises.'

The increase of floor space of c. 61% is not considered to comprise an appropriately sized extension of an existing employment site without any justification. Had the applicant demonstrated their need for this quantum of additional floorspace then there could be scope to support such an expansion. However, the onus falls upon the applicant to demonstrate why a 61% increase would be considered appropriate. At the time of making this assessment, no justification nor rationale has been provided to demonstrate why the increase in c. 61% is appropriate. Equally, the Council is unable to find any rationale demonstrating why such a substantial increase would be appropriate.

Further, the opening up of the usage would comprise a new employment site in terms of its nature and usage. It would not be a simple expansion of an existing employment site, restricted to the same use. It would comprise in a new provision which would be different in use to that of the existing employment site.

Further, the applicant has not demonstrated that no acceptable alternatives have been identified within existing or permitted or allocated sites. However, given the provision would not result in the net loss of employment provision within the District, little harm results from this conflict.

The third limb to Policy EMP DM1(6) is not considered relevant given the cessation of the commercial buildings that would have been possible.

The applicant has submitted that the re-aligned A29 is an overriding material consideration to be weighed in favour of the re-provision. However, the Development Plan policies would support the re-provision of the existing 281 square metres of commercial development with an appropriate expansion. However, the provision of the A29 would not justify the opening up of the commercial uses to B1/E and open B8 uses, in this instance, with a 61% increase in floor space.

In summary, Policy EMP DM1 does not support the opening up of uses in this countryside location in principle and insufficient information has been submitted by the applicant to demonstrate that the extension of the employment site is appropriate. On this basis, the development is considered contrary to Policy EMP DM1 of the Arun Local Plan.

DESIGN AND CHARACTER OF THE COUNTRYSIDE:

Policy D SP1 (Design) requires all development proposals to 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.

Policy D DM1 (Aspects of Form and Design Quality) sets out a 15 point criteria against which development proposals should accord.

Policy H4 (NDP) requires new residential development to be of a high quality design and to integrate into its surroundings and be well connected to the village. Policy H6 (NDP) requires the design of new housing to give full consideration to bin stores, recycling facilities, cycle stores, meter boxes, lighting, gutters and pipes etc...

Policy H SP2 (ALP) makes clear that sites should have regard to a Masterplan endorsed by the Council. The Council have now endorsed the Framework Masterplan for the BEW Strategic Site which sets out the design and placemaking principles for the delivery of development.

The criteria contained within Policy H SP2(c) requires the design of development and landscaping to ensure that there is continuity between existing landscape setting and villages and preserve the separate identities and avoid any further coalescence of the three villages through the delivery of green infrastructure.

The application would see the replacement dwelling site to the south of Eastergate Lane with a set back off the road which would be comparable to neighbouring Lyndhurst and Wayside. This would ensure the broad urban grain, layout and general siting of development would accord with that in the locality.

The commercial buildings would be located to the south of the site which, until the development of the re-aligned A29, would have an exposed rear elevation. However, this exposed rear elevation would not be permanent and would only be interim. The absence of any immediate properties nearby to this commercial building would not result in demonstrable harm on any neighbouring amenity or wider character of the area.

Once the re-aligned A29 begins to be developed, appropriate landscaping and buffer treatments will take place as part of these separate, but adjacent works. On this basis, it is unlikely that any irreversible harm on the wider character of the area would result.

The replacement dwelling would comprise a two storey dwelling with hipped roof. A central entrance comprises a punctuation in the rear elevation with a protruding balcony which would serve the master bedroom. The primary elevation comprises a mirror of the rear elevation, albeit with greater detailing. The elevations insinuate the use of windows finished in a sash casement which could be secured via condition. The windows feature lintel detailing and detailing along the eaves of each floor. The dwelling could appear somewhat bland if attention to detailing is not secured. Therefore, a condition is necessary to ensure a high quality design.

A separate stand alone garage sits between the replacement dwelling and Eastergate Lane. This garage comprises a barn style and would be appropriate to the rural character of the locality. The building also comprises an aesthetic which would be harmonious with the main dwelling. The building features 3 no. openings and a studio above which is accessed by an external stairwell. The use of this studio shall be controlled by condition for purposes incidental to the main dwelling only. Subject to the above condition securing detailed design, the building would be appropriate to its locality.

The proposed commercial buildings comprise 5 bays with a total quantum of 726 sqm; an increase of c. 61% above the existing 281 sqm. Whilst the application submission indicates that the height of the buildings comprises 1.5 storeys, the overall height is considered to comprise 2 storeys. The building indicates different materials to the upper and lower floor elements where there could be greater visibility along the A29 road. However, such matters can be agreed through the use of conditions.

The submitted site layout plan would feature vegetation forward of the replacement dwelling which would provide effective screening of the built development behind this. Subject to securing appropriate planting, species and heights, such screening could accord with the wider rural character of Eastergate Lane.

On the basis of the above, the development would result in a comprehensively planned development (in terms of layout, design, height, size and scale) and would therefore accord with Policies D SP1, D DM1, H SP2 and H SP2c of the Arun Local Plan and Policies H4 and H6 of the Barnham and Eastergate Neighbourhood Development Plan.

NEIGHBOURING AMENITY:

Policy QE SP1 (ALP) requires that development does not have a significantly negative impact upon residential amenity of residents within the District.

There are two existing properties neighbouring the application site which are located to the west and east of the site. However, these properties are located some considerable distance between the proposed built development and physical buildings on site. Further, the imposition of a condition in respect of landscaping would likely be sufficient to prevent any issues in terms of overlooking, through the screening provided.

Comments have been received throughout the consultation period in respect of vehicle movements having an adverse effect on the amenities of nearby residents. However, the LPA is satisfied that such vehicle movements can be adequately controlled through the use of conditions restricting movements of deliveries to the site. Furthermore, regard has been given to the fact that Eastergate Lane serves a number of other commercial premises where Eastergate Lane provides for this vehicular access (in terms of deliveries). These existing movements are located in closer proximity to those neighbouring properties than the junction. Therefore, it is concluded that the proposed development, subject to conditions, is unlikely to result in impacts on residential amenity to such an extent that it would warrant the refusal of planning consent.

On the basis of the above, the development would not result in significant negative impacts upon residential amenity of adjacent occupants and would therefore accord with Policy QE SP1 of the Arun Local Plan.

HIGHWAYS, ACCESS AND PARKING:

Policy T SP1 (ALP) requires development to be supported by an effective and deliverable Transport Assessment which demonstrates that the transport effects of the development on the local and strategic road network can be satisfactorily mitigated. Policy T DM1 (ALP) requires access to alternative modes of transport including public transport services, the public right of way and cycle networks must be available and accessible to all members of the community.

Policy GA4 (NDP) makes clear that development proposals will be supported only if they include the maximum level of off-street parking consistent with the current standards under the Local Plan.

Residential Unit:

The proposed dwelling will be accessed via a new access onto Eastergate Lane which is a road with a 40mph speed limit. The proposed access is approximately 4.8m wide and there the consultation response from WSCC Highways notes that this is sufficient to allow two vehicles to pass one another. The proposed site plan demonstrates a gate at the site entrance which is positioned at least 5m from the back edge of the carriageway. This distance is sufficient to allow a vehicle to be fully removed from the carriageway and/or footway while the gates are opened with an inward opening mechanism. The proposed 72m visibility splays are considered adequate for approach speeds of 32.5 mph. Whilst

Eastergate Lane has a limit of up to 40 mph (which results in splays of 120m each way), given the presence of the approaching junction with Fontwell Avenue, vehicles are not anticipated to travel with the posted speed limit.

The proposal is for a replacement dwelling, it is not anticipated that the use will result in a material intensification of use onto Eastergate Lane or the wider road network.

6 parking spaces will be provided for the residential element of the development, some of which will be accommodated within the proposed garage. The proposed quantum of vehicular parking accords with the WSCC Car Parking Demand Calculator (PDC) for a dwelling of the proposed size and location.

Commercial Unit:

A second access is proposed for the site to serve the commercial units which is 4.8m wider and is sufficient to allow two vehicles to pass one another. Following site visits by both the Local Planning Authority and WSCC Highways, the presence of a layby/overgrown accessway within close proximity to the north-east of the site was noted. However, this has not been shown on any of the proposed plans. The LPA has requested updated plans to demonstrate how this would work with the proposed access on a revised plan. To the date of this report no further revised plans have been provided by the applicant. Visibility splays of 105m have been provided which are considered appropriate for the vehicular speeds of Eastergate Lane.

The estimated trip generation for the proposed use based on the proposed floor space is likely to be 43 two day daily movements. Given the increase in floor space which was not noted within the WSCC Highways consultation response, the LPA concludes that an increase in vehicular trips would result. However, even at the proposed level of trip generation, WSCC has not raised any objection in terms of conflict with paragraph 109 of the NPPF.

The proposed plans demonstrate that a Rigid Truck (2.5 x 12m) can successfully manoeuvre to the site onto Eastergate Lane. The truck slightly overruns the carriageway when entering the site; however, given the size of the truck and the road context this is not anticipated to result in a highway safety issue.

The proposed site plan demonstrates parking provision of 17 parking spaces plus 2 parking spaces for disabled use. However, the proposed vehicle tracking plan conflicts with the above and demonstrates 24 parking spaces. Clarification on the total quantum of parking spaces has been requested by the applicant through revised plans. However, on the date of this decision, no such revised plans have been received.

On the basis of the above, the LPA are unable to conclude whether the existing vehicular access is to be retained/remove and therefore cannot rule out whether any highways safety issues would result. Further, the layby has not been detailed on the submitted plans and therefore the LPA cannot rule out whether any highways safety issues would result. Finally, the LPA are unable to understand the total quantum of parking provision and the vehicle tracking associated with this. Therefore, the LPA cannot rule out whether any highways safety issues would result.

Taking these above matters into account, the LPA and Highways Authority are unable to conclude sufficiently from the information submitted, whether the proposed development would result in highways issues. Applying the precautionary approach, the development currently conflicts with Policies T SP1 and T DM1 of the Arun Local Plan and Policies GA2 and GA4 of the Barnham and Eastergate Neighbourhood Development Plan.

TREES AND LANDSCAPING:

Policy ENV DM4 (ALP) requires development proposals to demonstrate that trees protected by a Tree

Preservation Order or contributing to local amenity will not be damaged or destroyed; subject to the detailed criteria.

Policy ES10 (NDP) makes clear that development that damages or results in the loss of ancient trees, trees or hedgerows of arboricultural and amenity value will not be supported.

The submitted Site Plan demonstrates substantial and extensive tree planting across both the residential and commercial parcels of the application site. Whilst these are only shown as being indicative on the submitted plans, it does demonstrate that a comparative quantum of planting could be achieved through imposition of an appropriately worded condition.

On the basis of the above, the development would safeguard trees contributing to local amenity in accordance with ENV DM4 of the Arun Local Plan and Policy ES10 of the Barnham and Eastergate Neighbourhood Development Plan.

BIODIVERSITY AND ECOLOGY:

Policy ENV DM5 (ALP) requires development schemes, in the first instance, to achieve a net gain in biodiversity and protect existing habitats on site.

The application is supported by an Ecology Report prepared by WSP as part of the A29 re-alignment project. Whilst there is no in principle reason as to why reports cannot be used for multiple purposes, having reviewed Figure 1 of said Report, the red line and surveyed area does not wholly cover the entirety of the application site. Whilst the LPA acknowledge that this may form part of the baseline assessments, in the absence of sufficient information covering the area of the proposed development, the LPA are unable to conclude as to what mitigation measures are necessary. This matter was noted within the consultation responses received from the Council's Ecologist.

The comments received from the Council's Ecologist also note that further barn owl surveys are required, prior to the determination of the application. The Local Planning Authority has not requested these additional surveys given the other overriding matters set out in this report prevent permission from being able to be granted.

Therefore, insufficient information has been submitted to allow the Local Planning Authority to conclude sufficiently on such matters relating to biodiversity and ecology, in conflict with Policy ENV DM5 of the Arun Local Plan.

The application site falls within the Singleton and Cocking Tunnels Special Area of Conservation (SAC). The extent of the survey area does not include the hedgerows around the perimeter of the application site which are known, following the LPA's site visit, to be well established. It is common knowledge that rare species of bats that derive from the Singleton and Cocking Tunnels forage in the hedgerows in the nearby area. In order for the Competent Authority (the LPA) to undertake an Appropriate Assessment, sufficient baseline surveys are required to allow the Competent Authority to undertake this Assessment. For the reasons set out above, the Local Planning Authority has insufficient information at the time of writing to enable them to undertake an Appropriate Assessment to conclude that likely significant effects would not result from the development.

Subject to the imposition of conditions which include securing biodiversity enhancements, the development would provide for biodiversity net gains in accordance with Policy ENV DM5 of the Arun Local Plan.

SUSTAINABILITY AND CLIMATE CHANGE:

Policy ECC SP2 (ALP) requires all new residential development to be energy efficient and to

demonstrate how they will (a) achieve energy efficiency measures that reflect the current standards applicable at the time of the submission, (b) use design and layout to promote energy efficiency and (c) incorporate decentralised, renewable and low carbon energy supply systems.

Policy ES11 (NDP) requires all new housing development to have a minimum energy efficiency standard equivalent to Level 3 of the Code for Sustainable Homes. New development should also include high quality, thermally efficient building materials, double glazing (at a minimum) and cavity walls and loft insulation.

The applicant has not provided any such details within the submission. However, such details could be secured by way of imposition of condition. Therefore, subject to conditions securing the above, the development will accord with Policy ECC SP2 of the Arun Local Plan and Policy ES11 of the Barnham and Eastergate Neighbourhood Development Plan.

Subject to the imposition of conditions which include securing biodiversity enhancements, the development would provide for biodiversity net gains in accordance with Policy ENV DM5 of the Arun Local Plan.

SUMMARY:

This assessment has found that the proposed development does not accord with the Policies contained within the Development Plan. Whilst material considerations have been identified, without any basis upon which to secure these material considerations, they cannot be given overriding weight. Therefore, the conflict with the Development Plan remains.

Further, the applicant has submitted insufficient information in respect of birds, ecology, Special Areas of Conservation Area and highways to allow them to determine the application favourably.

On the basis of the above, the proposed development remains in conflict with the Development Plan and therefore planning permission is refused.

HUMAN RIGHTS ACT

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

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

SECTION 106 DETAILS

The applicant has not provided a S106 Agreement either through a bi-lateral or unilateral undertaking. Therefore, the material considerations which this application relies upon is unable to be secured.

RECOMMENDATION

REFUSE

- 1 The development would result in a new residential development outside an identified Built-up Area Boundary. The material considerations submitted to outweigh this conflict are unable to be secured and subsequently delivered. The proposals are therefore contrary to Policy SD SP2 and C SP1 of the Arun Local Plan.
- 2 The proposed additional commercial floorspace, comprising open B1/E and B8 usage, does not constitute an appropriate sized extension to an existing employment site and is therefore contrary to Policy EMP DM1 of the Arun Local Plan.
- 3 Insufficient information has been submitted to enable the Local Planning Authority to conclude whether the development would be acceptable in highways terms. In the absence of such information the development conflicts with Policies T SP1 and T DM1 of the Arun Local Plan and Policies GA2 and GA4 of the Barnham and Eastergate Neighbourhood Development Plan.
- 4 Insufficient information has been submitted in respect of ecology, barn owls and the Singleton and Cocking Tunnels SAC to enable the Local Planning Authority to conclude that the development will not adversely impact upon barn owls and reptiles. Further, insufficient information has been submitted to allow the Local Planning Authority to undertake an Appropriate Assessment and therefore the LPA is unable to conclude that likely significant effects will not result on the SAC.