

Recommendation Report for Planning Permission

REF NO:	BN/64/26/PL
LOCATION:	Hill View Eastergate Lane Eastergate PO20 3SJ
PROPOSAL:	Demolition of existing dilapidated commercial sheds and the erection of 9 No dwellings and associated car parking and landscaping (resubmission following BN/83/25/PL). This application is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This proposal requires the demolition of existing commercial sheds and seeks the construction of 9 dwellings, with associated parking and amenity space. Of these dwellings, six are detached dwellings (a mixture of bungalows, 1.5 storey and 2-storey houses are proposed) and three are terraced (2-storey) properties. 2 no. detached double garages and 2 no. detached single garages are to be constructed. 20 car parking spaces and what appears as 2 visitor spaces are also proposed. The site consists of an area of existing commercial land behind 'Hill View' and land to the rear of 'Wayside' agricultural land, previously an orchard which lays to the south of Eastergate Lane. It is proposed to demolish the three commercial units present.
TOPOGRAPHY	Gentle fall north - south.
TREES	There is significant tree planting across the site and some TPOs.
BOUNDARY TREATMENT	Hedging, hedgerow, and fencing.
SITE CHARACTERISTICS	Mixture of residential garden, commercial/light industrial units and agricultural (grade 2) orchards.
CHARACTER OF LOCALITY	Rural character. Larger detached dwellings set back from the highway (ribbon development) interspersed with light industrial and agricultural/equine buildings. The area has an open spacious character.

RELEVANT SITE HISTORY

BN/83/25/PL	Demolition of existing dilapidated commercial sheds and	Withdrawn
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the erection of 9 No. dwellings with associated car parking and landscaping. This application is a Departure from the Development Plan and is IN CIL Zone 3 and is CIL Liable as new dwellings

18-11-25

BN/186/22/PL

Erection of 3 No. 4 bedroom houses and 1 No 3 bedroom house on land adjacent to Wayside. This application is a Departure from the Development Plan, is in CIL Zone 3 and is CIL Liable as new dwellings (resubmission following withdrawal of BN/68/22/PL).

Withdrawn
07-02-23

BN/68/22/PL

Erection of 4 x 4 bedroom houses. This application is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.

Withdrawn
18-07-22

REPRESENTATIONS

Barnham and Eastergate Parish Council provided an objection

- Flooding issue, Barnham regularly suffers with foul water flooding and the waste water treatment works should be upgraded first.
- Due to its location, it could negatively impact upon biodiversity corridors and bats.
- The site is not allocated in the neighbourhood plan, but is brownfield land as such there is no loss of green field sites.
- The Parish Council appreciate the inclusion of the 3 smaller 2-bed terrace properties in the layout.
- If the above reasons could be overcome, the development could be a positive enhancement for the local area as it is currently occupied by dilapidated buildings.

4 letters of support from nearby occupiers

- It would be a clear improvement on the existing site, more in character with the wider area.
- The design is appropriate for its location.
- Does not have negative impacts upon neighbours.
- The existing buildings may have asbestos and pollution with the ground which should be assessed and removed properly.
- The redevelopment offers the potential to enhance the area and complies with relevant policies.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Southern Water - There is capacity in the network. Request condition relating to demolition and landscaping. Site not within Southern Waters supply area.

Environmental Health - No objection subject to conditions relating to contamination, lighting, noise and hours of construction.

ADC Ecology - Hold for further information on protected species, bats and reptiles and BNG.
Bat emergence and re-entry survey report dated 18/09/2024 is out of date as the cover states it is valid for 18 months. New bat emergence and re-entry surveys are required prior to determination of this application.

Additional information was submitted and subsequent comment on the 16/6 and 30/6 confirmed that a reptile mitigation strategy is acceptable and surveys are not required. Satisfied that the applicant has provided the correct BNG information. There are no outstanding issues with the BNG.

Natural England - No objection.

ADC Engineers - Objection. Management of extreme rainfall is not currently demonstrated to be in accordance with the requirements of the NSfS Standard 3. Therefore, we object to the application.

WSCC Lead Local Flood Authority - Due to the scale of the application, there are no comments to make.

WSCC Highways - No objection subject to conditions for access, car parking, cycle parking and a construction management plan.

COMMENTS ON CONSULTATION RESPONSES:

Noted.

POLICY CONTEXT

Designation applicable to site:
Countryside location (Outside Built-up Area Boundary)
Lidsey Treatment Catchment Area
Surface Water Flooding.
Sharp Sand and Gravel Consultation Area.
Singleton and Cocking Buffer Zone 1200m.

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
WDM1	W DM1 Water supply and quality
ENVSP1	ENV SP1 Natural Environment
ECCSP1	ECC SP1 Adapting to Climate Change
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ENVDM3	ENV DM3 Biodiversity Opportunity Areas
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development

TSP1	T SP1 Transport and Development
EMPDM1	EMP DM1 Employment Land: Development Management
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[Barnham and Eastergate Neighbourhood Plan 2019](#) Parking and new development

POLICY GA4

Barnham and Eastergate Neighbourhood Plan 2019 Retention of employment land
POLICY EE2

Barnham and Eastergate Neighbourhood Plan 2019 Settlement boundary
POLICY H8

Barnham and Eastergate Neighbourhood Plan 2019 Reducing Flood Risk
POLICY ES1b

Barnham and Eastergate Neighbourhood Plan 2019 Outdoor space
POLICY H5

Barnham and Eastergate Neighbourhood Plan 2019 Quality of design
POLICY ES5

Barnham and Eastergate Neighbourhood Plan 2019 Windfall sites
POLICY H2

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 is considered to conflict with relevant Development Plan policies in that it would result in an inappropriate form of development development outside of the defined settlement boundary. Insufficient information has been provided to demonstrate that the development would not result in significant harm upon bats nor has it demonstrated it can suitably drain surface water. It also does not secure significant BNG through a S106.

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

The metric indicates a loss of -1.56 area units equivalent to -17.29% based on current plans. Offsite BNG units will be required. For Hedgerows there is a gain of 11.24%.

CONCLUSIONS

PRINCIPLE

The site is outside of the Built-Up Area Boundary (BUAB) in the Arun Local Plan (ALP) and the Barnham & Eastergate Neighbourhood Development Plan (BENDP). The BUAB is approx. 100m to the south of site.

ALP policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal and so the proposal conflicts with the ALP. The BENDP was made in March 2022 and shows the site outside the BUAB. Policy H2 allows for windfall sites but only where these are in the BUAB. Policy H8 states development proposals on land outside of the BUAB will not be supported unless it can demonstrate a need to be located in the countryside. No justification as to why this site is suitable for housing has been submitted and therefore there is also conflict with this policy.

The principle of development on this countryside site conflicts with the ALP. As the council cannot currently demonstrate a 5-year Housing Land Supply (HLS), the policies most important for determining the application are out-of-date and so the application must be determined by the NPPF presumption in favour of sustainable development under paragraph 11 (d). In such circumstances Paragraph 11 (d) ii) of the NPPF is relevant. This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for housing applications, where the Council cannot demonstrate a five year supply of deliverable housing sites), planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

In order for the NPPF's (para 11) 'presumption in favour of sustainable development' to apply it must first be assessed whether the proposal would constitute 'sustainable development'. Para 8 of the NPPF states that in order to achieve sustainable development; economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

The site is approximately 100m from the BUAB and is semi-rural in character. It is possible to access local shops and services such as those in Eastergate to the south (about 1km) by cycle, on foot or by

bus. However, Eastergate Lane is not lit at night and there is no segregated pedestrian path. It is unlikely that trips from this site will be made by modes other than the private car. There would be some social and economic benefits through construction and provision of CIL receipts etc. However, it is material that a nearby appeal decision in June 2023 (Eastmere Stables) for 9 dwellings deemed the area to be sustainable, dismissing the councils objections concerning an unsuitable location for new housing development. This site is located approximately 375m directly east of the site and whilst the inspector acknowledged the site was not highly accessible, as a whole the harm identified was not significant. A strategic site for 525 dwellings is also proposed 70m to the south of the site. The development would therefore be in a sustainable location.

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

LOSS OF EMPLOYMENT AREA

ALP policy EMP DM1 seeks the enhancement, protection, and expansion of differing types of business development in the local area. EMP DM1(2) is of relevance as it provides criteria to protect existing employment sites. the policy goes on to state the Council will require evidence that sites are not made deliberately unviable, and they have been marketed for a reasonable period of time. Alternative employment uses should be full explored. Policy EE2 of the BENDP seeks to protect employment sites unless it can be shown that the use is no longer economically viable.

Existing employment sites (including those involving a change of use from B1/B8) will be protected unless it can be demonstrated that the site is no longer required and is unlikely to be re-used for other commercial purposes. Clear evidence that the site is no longer required for commercial operations has not been provided to the Council, nor has any justification been provided as to why the site could not continue to support commercial activities.

It is noted that the buildings are dilapidated, however this is not comprehensive justification as to why they could not be brought back into use. It is also noted that evidence suggests that business did operate out of the site until approx. 2020.

The proposal has not explored or provided justification that continued use for commercial activities could not continue. It is also acknowledged that the area supports other commercial activities such that business in this location are not out of character. Conflict with ALP policy EMP DM1 and EE2 of the BENDP has been identified.

CHARACTER AND APPEARANCE

Policy D DM1 sets out 13 design aspects of which applications should be assessed against. These include Character, Appearance, Impact, Trees, Layout, Density and Scale. Policy D SP1 see to achieve an efficient use of the land and be reflective of the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details.

Policy ES5 of the BENDP states 'New residential developments must be of high-quality design, integrate well with the local landscape and built environment and contribute to and conserve the features which contribute to the distinctive character'.

The Arun Design Guide SPD (ADG) is a material consideration in the determination of applications. Part

P deals with Infill Development (site redevelopment) and stresses that while infill schemes present a valuable opportunity to increase the efficiency of land use in existing urban and rural areas and provide new housing, this should not lead to overdevelopment and over-intensification of building plots. The scale, alignment, building patterns and location character should be preserved.

The existing character of the immediate area to the southern side of Eastergate Lane is defined by sporadic properties on larger plots consisting of linear development. Frontages are visible behind manicured gardens with low boundary treatments. The commercial element is visible from the highway but views are not far reaching. To the northern side of the road the pattern of development is similar, however the linear group of houses is greater running further to the east. The site is well screened from the road.

Properties are of traditional designs and a mix of material finishes. Specific details can be secured by condition. It is acknowledged that there are recently developed sites in close proximity to application site including development on land to the west of Fontwell Avenue and a strategic site to the east of Fontwell Avenue; however the character of these developments has limited impact on the character of the application site due to there being no intervisibility between the sites.

A mix of dwellings is being provided in terms of scale and type, although the style and finish of the dwellings has a uniformity such that their architectural features, detailing and finish are of similar appearance. A brick and tiled finish is used. It is positive that the development includes smaller 2-storey terrace dwellings and single storey bungalow as this will cater for a range of end users.

The layout of development is not reflective of the pattern of development along this section of Eastergate Lane, which predominately front the lane however this negative is counteracted by layout which makes an effective use of the land. Despite there being an obvious urbanising effect on the site, the dwellings are afforded good space about them, there is an informality in their placement which reinforces their semi-rural location. Plot 1 fronts Eastergate Lane, which respects the pattern of development along the highway. The frontage measures approx. 9m deep which is similar to Hill View and the neighbour to the east. The density of 11.7 dph is lower than is recommended for village locations in the ADG (Part G). The dwellings to the rear of those fronting the highway are not expected to be highly visible from that view point, and will also be largely screened from the open countryside by the woodland to the south/south east, such that the development will not significantly erode views over the open countryside. All properties are afforded a defensible front garden which is in line with ADG requirements.

Although it will have an urbanising effect to the immediate land, which is contrary to policy in that development is not reflective to the existing character of the land. The development will be well related to the existing built form and will not erode views over the open countryside. The proposed layout, density and scale of development will not result in harm to the character of the locality. The proposal complies with ALP policies D SP1 and D DM1, the NPPF and the Arun Design Guide and ES5 of the BENDP.

RESIDENTIAL AMENITY

Policy QE SP1 and policy D DM1 of the ALP sets out criteria for which applications relating to new development must be assessed against. They generally seek to minimise the impact of the proposal on the character of the area and its neighbours and enhance the quality of its environment.

The ADG states that gardens should have a minimum length of 10.5m, side to front/rear elevations should be at least 14m apart and that the 25/40-degree rules should be applied where necessary to protect the outlook of buildings against and overshadowing effects. A minimum separation distance of 21m should be afforded between windows serving habitable rooms and the rear of a property, with 16m to frontages.

The development will be located to the rear of existing properties (Wayside and High View). However, due to the separation distances, sufficient distance is provided to ensure that there will be no adverse impact from overbearing, overshadowing or overlooking between the existing dwellings or those proposed, specifically plots 2-4 which are closest to existing neighbours. Plot 1 will be located approximately 6m from the dwelling to the east, although the nearest building to be impacted would be a double garage. The eastern boundary dividing the site consists of mature tree coverage. It is therefore expected that only limited views into the site will be achievable from this point. The proposal will not provide overbearing effects to this property.

With regards to the proposed dwellings, the front to front relationship between plots 7 and 8 is acceptable at 16m. This is similar to the rear/side relationship between plots 8 and 9. 11m is retained between plot 5 and 6. There are no specific requirements with regards to side to side properties, although with parking in between the plots, this is acceptable.

The position of the dwellings across the site is acceptable, providing a spacious layout and plots meet, and in most cases exceed, design guidance criteria. The proposal accords with Part G of the ADG in these respects.

The proposal accords with design guidance, as such no harm to the future occupants are identified, in turn the proposal accords with ALP policies QE SP1 and D DM1 and the ADG.

SPACE STANDARDS/QUALITY OF ACCOMMODATION

Policy D DM2 of the Arun Local Plan states that the planning authority will require internal spaces to be of an appropriate size and that the Nationally Described Space Standards apply.

National guidance advises the following Gross Internal Area (GIA) of relevant dwellings:

- 2 storey, 4 bed dwelling 170 sqm
- 2 storey, 3 bed dwelling 106-154sqm
- 2 storey, 2 bed dwelling 83sqm
- 1 storey, 3 bed dwelling 106 sqm

Policy H.04 of the Arun Design Guide SPD advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. Policy H5 of the BENDP supports this. It states rear gardens should have a minimum depth of 10.5m and buildings should be set back by 2m from the plot boundary to mark defensible space. The dwellings exceed these requirements.

The proposal complies with ALP policy D DM2 and H5 of the BENDP.

PARKING

Policy T SP1 of the ALP supports development which incorporates appropriate levels of parking in line with the West Sussex County Council guidance on parking provision. Arun District Council adopted its own Parking Standards SPD in Jan 2020.

Regard should be had to para 116 of the NPPF which states 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'.

The existing access serving Hill View and the commercial area will be utilised for the proposed access road into the site. The access road will be a shared surface (5.5m wide) which will be suitable for turning of larger vehicles and will allow two vehicle to pass. WSCC have confirmed that visibility is acceptable.

In this location (Parking Zone 1) 2 and 3-bedroom dwellings should have 2 spaces per dwelling, 4-bedroom dwellings should have 3. Visitor spaces should be provided at a ratio of 20% of the total

number of residential units. Plans show that all dwellings accord with the requirements, and in most cases exceed them with the inclusion of garages to 5 of the dwellings. 2 visitor spaces are provided.

Policy GA4 of the Barnham & Eastergate Neighbourhood Plan (BENDP) states 'Development proposals will be supported only if they include the maximum level of off-street parking consistent with the most current standards'. The scheme complies with this.

The proposal complies with ALP policy T SP1 and GA4 of the BENDP.

TREES

Policy ENV DM4 relates to the protection of trees. Informed by appropriate surveys, new development should be designed to have a comprehensive approach to trees, ensuring negative impacts are negated.

An Arboricultural Survey and Report, and a Method Statement have been submitted with this application. The site consists of 48 individual trees, 8 groups of trees and 4 hedges. 4 trees, running along the southeastern boundary, form part of a larger Tree Protection Order (TPO). It is proposed to remove 2 trees (category U) and 2 partial hedges (category C) however it is proposed to plant 14 new trees.

Incursion within the Root Protection Area (RPA) of the TPO trees will occur as a result of the proposed driveway to plot 9, however significant incursion will not incur (a maximum of 17%). The Arboricultural Method Statement indicates the hard surfaces inside the RPAs will be constructed with a 'no dig' solution which, along with the minimal incursion, is acceptable.

A Tree Protection Plan shows that for both phases of development (initial demolition of commercial buildings and construction phase) the trees will be adequately protected, a condition can be attached to any approval securing this.

The layout of development ensures that retained trees are largely positioned to boundaries, shared areas or to frontages, where there will be less pressure for future occupants to remove them. Albeit plot 7 has numerous orchard trees within their rear garden area. Despite these trees being smaller, they do disrupt the open area of this plot and there may be some pressure to removed them by future occupants. The tree officer was consulted although no comment was received and in the absence of these, it is deemed acceptable.

Development is informed by an appropriate level of information which confirms that a minimal number of trees are required to be removed to accommodate development. TPO trees will be retained and development within these RPAs is acceptable. The proposal complies with ALP policy ENV DM4 and the NPPF.

ECOLOGY

Arun Local Plan policy ENV SP1 encourages and promotes the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites. The Council will ensure through policy ENV DM3 in Biodiversity Opportunity Areas development shall (b) retain and incorporate sensitive habitat, and be designed to minimise disturbance to habitats. Where development is likely to have an impact on species or habitat an appropriate survey is required to determine the level of impact development may have. Policy ENV DM5 also requires appropriate surveying of species to avoid harm and loss of that species and consideration of the impact (either direct or indirect) on protected species. Para 193 of the NPPF is also relevant to Ecology.

Policy ES17 of the Barnham and Eastergate Neighbourhood Development Plan states proposals for the development of sites which in 12km of Singleton and Cocking Tunnels Special Area of Conservation

(SAC), 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.

The site is within the 12km buffer zone for the Singleton and Cocking Tunnels SAC. This area is protected as the area is functionally linked as feeding grounds for Barbastelle bats and Bechstein's bats. The site is also denoted as a Biodiversity Opportunity Area (BOA) by the ALP.

The Preliminary Ecological Appraisal (PEA) indicated that one of the commercial buildings has a moderate potential for roosting bats. Removal of grassland and partial removal of hedging will also reduce their foraging area. The PEA recommends that further emergence/re-entry surveys are required. The PEA also recommends other mitigation such as a low impact lighting strategy (this can be secured by condition) and DNA testing of droppings to determine species.

Emergence/Re-entry Surveys submitted were undertaken in August 2024, this found a small population of Brown long-eared bats used the site as a feeding roost. This report also states the results are valid for 18 months and are now out of date. As a result, up to date bat emergence and re-entry surveys are required and should be submitted prior to determination to establish the presence of bats on the site and to determine the impact the development may have upon them. The development will also require a bat license.

The PEA states that the site is too small for an effective dormouse survey using standard methodology. They recommend a precautionary approach and habitat enhancement for dormice. This is acceptable and must be secured by condition.

It is understood that the area is regularly mowed and the potential for reptiles is low. A reptile mitigation strategy is acceptable and should be secured by condition.

The PEA states a survey for nesting birds was undertaken but provides no information on the date or time of the survey or methods used to identify nesting birds. The ADC Ecologist has stated that the proposed mitigation of nest boxes will not compensate for loss of nesting habitats.

The development fails to provide adequate surveys and details in respect of birds. Without precise knowledge of which species and how big populations are, appropriate mitigation cannot be determined. This should be dealt with prior to determination as it may have implications in the layout/mitigation that is required on site. The proposal fails to accord with ALP policies ENV SP1, ENV DM3 and ENV DM5 or the relevant paras of the NPPF.

BIODIVERSITY NET GAIN

Policy ENV DM5 of the Local Plan requires development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. They shall incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not).

Policy ES10 of the Barnham and Eastergate Neighbourhood Plan requires development proposals to be designed to incorporate biodiversity in and around developments and protect and enhance ecological networks, seeking to retain wherever possible ancient trees, trees of good arboricultural and amenity value and hedgerows to contribute to the Government's target to halt the decline in biodiversity by aiming for a net gain for nature.

The Environment Act stipulates a measurable 10% net gain is required to be achieved. The NPPG also provides guidance for planners and agent in respect of BNG. Of most importance is it highlights the need

to consider BNG through the planning process and the minimum requirements of information required. It is material the Council have to ensure that BNG can be achieved and whether the BNG condition is capable of being discharged.

Applications BN/68/22/PL and BN/186/22/PL were submitted in 2022 for new dwelling on land at Wayside and now forms part of this application. The existing site plan and tree surveys prepared for each of these application shows there were significant number of trees present on this land in 2022. Mapping data prepared by Natural England in 2024 identifies this land as Traditional Orchard, a high distinctiveness habitat. The PEA noted that trees were removed due to deer destruction, however the orchard is still quite visible in aerial imagery in 2021, 2022, and 2023. As a result of this, and in accordance with BNG requirements, it is considered that degradation of the site has occurred.

BNG legislation sets out provisions for the calculation of the pre-development biodiversity value of onsite habitat when degradation has occurred prior to the submission of a planning application. Paragraph 6 of Schedule 7A of the Town and Country Planning Act 1990 states where unauthorised degradation has occurred between 30 January 2020 and the date of an application, the biodiversity pre-development value of the onsite habitat should be calculated as the biodiversity value of the habitat on the date immediately before the carrying out of these degradation activities. The value calculated should be input to the BNG metric along with a statement surrounding the degradation of the site. As it is orchards have a high BNG value and will change the outcome of the submitted metric considerably.

The metric indicates a loss of -1.56 area units equivalent to -17.29% based on current plans. Offsite BNG units will be required. For Hedgerows there is a gain of 11.24%.

The removal of traditional orchard must be made up for on a like-for-like basis. Given that significant areas of traditional orchard has been cleared already, compensating with landscape changes alone will not generate sufficient units to compensate the unit deficit. Therefore, off-site units will be required. A section of retained traditional orchard will be enhanced to moderate condition by improving the grassland at the base to an other neutral grassland, and also introducing restorative pruning regime.

The metric and landscape plans propose significant on site BNG and these habitats need to be secured for 30 years through a S106 agreement and a Habitat Management and Monitoring Plan (HMMP).

Following the submission of additional information, the ADC Ecologist confirmed that there were no outstanding concerns with BNG subject to securing conditions and a S106.

Whilst the proposal would be able to achieve a biodiversity net gain, by purchasing off site units, in the absence of a S106 to secure the significant on-site habitats, the proposal has not demonstrated that the significant BNG would be secured in conflict with ALP policy ENV DM5 and the NPPF.

FLOODING AND DRAINAGE

ALP policy W DM1 states that although minor developments are unlikely to raise significant flood risk, due to the cumulative impact all development within The Lidsey Treatment area must also be accompanied by a Drainage Impact Assessment. ALP W DM2 relates to flood risk at the site. ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS) as appropriate to the size of development.

The site lies in the Lidsey Wastewater Treatment Catchment Area. The site is in Flood Zone 1 (no future risk of this changing) but with a potential high risk (75%+) of ground water flooding.

The side is identified as being within Zone 1c and 2c groundwater source protection zones.

Groundwater monitoring was undertaken between 31st October 2024 and 28th March 2025. Further monitoring took place between Oct 25 and March 26. These results shows that groundwater peaked around 2.5m below ground level and site is able to infiltrate. Eastergate Lane, within the vicinity of the site, is not served by any formal drainage infrastructure. The carriageway drains 'over the edge' to the adjacent verge. There are no ordinary watercourses or Main Rivers on site, or within the vicinity of the site.

It is proposed that the site will utilise soakaways and infiltrating permeable paving as a means of draining the site. Rainwater re-use on plots is provided in the form of rainwater butts. Roof water will drain to the private soakaways located within the rear gardens of all plots, with the exception of Plots 5 and 6. Roof water from Plots 5 & 6 and the associated garages will drain to a communal soakaway (Soakaway 2), beneath the access road, owing to site constraints. The permeable access roads will have a 600mm deep/thick sub-base.

The ADC drainage engineers have provided an objection. They note there is surface water flood risk shown within the site boundary and the latest modelling shows a large area of flood risk including a significant area of between 300-600mm flood water depth within the lifespan of development. The high-level assessment that the area of existing flood risk is simply a localised low point which would be removed by the development is therefore not sufficient. The extent of flood risk should be overlayed on the proposed layout for context and the approximate extent of the catchment should be determined to ascertain whether the area of flood risk is due to overland flow from outside the site boundary. The design will need to ensure the flood water is not displaced offsite and that the drainage system can accommodate the additional load if necessary. This should be demonstrated through robust extreme rainfall calculations. There may be a need to incorporate additional land drainage for overland flow identified by the surface water risk modelling and to prevent displaced floodwater. The concerns raised by drainage should be dealt with prior to determination to demonstrate the feasibility of the solution.

Root protection paving typically does not include a depth of stone storage in the same form as permeable paving. The drained areas and infiltration/attenuation of the root protection pavement needs to be included in the design and cannot be omitted.

The imposition of a condition to deal with the above matters could result in a situation where the details are not sufficient to demonstrate that it can effectively drain the site, and this may require changes in the layout and result in a circumstance where a condition cannot be discharged.

With regards to foul sewage, the dwellings will drain to Southern Water's public foul water sewer network. A new connection is to be established to the foul water sewer located beneath Eastergate Lane, if existing infrastructure/connections cannot be retained and utilised where proven to exist (subject to investigation). Plots 5-9, inclusive, will require pumping. Final details of foul sewage could be secured by condition.

With an outstanding drainage objection, the proposal has not sufficiently demonstrated that the site can be drained and would not result in an increase in flood risk in conflict with ALP policies W DM2 and W DM3 and policy ES1b of the BENDP.

CLIMATE CHANGE

Policy ECC SP2 relates to energy and climate change mitigates and states that development should utilise energy efficient measures that reflect current standards, use design and layout to promote energy efficiency and incorporate decentralised, renewable and low carbon energy supply systems in development.

The application has included a sustainability statement which states that the dwelling will incorporate low

energy level lighting, on site provision of renewable energy through air source heat pumps and utilise passive design measures such as high performance glazing, insulation and ventilation.

These features could be controlled by condition and are acceptable and accord with ALP policy ECC SP2.

SUMMARY

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS (currently 2.3 years), para 11(d) of the NPPF and the application of the 'presumption' for sustainable development is triggered.

The site is in a sustainable location and will help in a small way to maintain construction jobs, support local shops/services and contribute to infrastructure improvements across the district. However, it will make only a very minor contribution to the council's housing land supply shortfall, and it is unclear whether there will be significant social benefits as the homes are spacious and modern and so may not be affordable to local people.

This report identifies that the proposal is in conflict with the council's policies in respect of development in the countryside, biodiversity and drainage. The application has not provided sufficient surveys to demonstrate bat populations on site will not be adversely harmed by the development. Whilst an attempt was made to overcome drainage concerns, there is still outstanding information required including rainfall calculations and flows on site to demonstrate that the site will be safe from flood risk. Whilst it is acknowledged that the NPPF does give support to using sites effectively, including the use of brownfield land, the material consideration is not of sufficient weight to demonstrably outweigh the areas of harm identified above. This is supported by paragraph 14.

The benefits of this proposal are limited whilst the harm as identified when taken as a whole is significant and as such, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The application should therefore be refused for the following reasons:

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

A S106 is required to secure on-site significant biodiversity net gain. This has not been completed.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 Insufficient information has been provided to determine if the proposed number of units are deliverable on the site without prejudicing surface water drainage for the site and leading to surface water runoff and increased flooding elsewhere. The proposal therefore conflicts with Arun Local Plan policy W DM3 and policy ES1b of the Barnham and Eastergate Neighbourhood Plan and the NPPF.
- 2 The development fails to provide adequate surveys and details in respect of bat emergence and re-entry surveys. Without precise knowledge of which species and how big populations are, appropriate mitigation cannot be determined. Given the amount of unknowns, the proposal may give rise to significant harm upon bats on site. The proposal fails to accord with Arun Local Plan policies ENV SP1, ENV DM3 and ENV DM5 and the relevant paras of the NPPF.
- 3 In the absence of a signed S106 agreement, the development will not secure significant on-site BNG habitats and is thereby contrary to Arun Local Plan policy ENV DM5 and the NPPF.
- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.