

Recommendation Report for Planning Permission

REF NO: K/51/21/PL

LOCATION: 47 Golden Avenue
East Preston
BN16 1QX

PROPOSAL: Erection of 1 No. detached dwelling and integral garage. This site is in CIL Zone 4 and is CIL Liable as new dwelling.

SITE AND SURROUNDINGS	
DESCRIPTION OF APPLICATION	As above. The new dwelling would be detached, 2 storey, with a hipped main roof form and flat roof integral garage. The property would have front and rear balcony features and multi-paned windows and doors with horizontal glazing bars, with a seaside villa architectural style. The proposed materials for the elevations and roof of the new dwelling remain unclear as they have not been described in the application form nor drawings. The proposal includes a front hardstanding driveway, bin storage, and a rear garden with patio areas.
SITE AREA	0.07 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	14 dph.
TOPOGRAPHY	Predominantly flat.
TREES	Hedgerows and vegetation on perimeter of site, some trees on adjacent neighbouring sites.
BOUNDARY TREATMENT	Open to frontage (Heras security fencing). Open to field at rear. Vegetation, hedgerow and close board timber fence panels to either side.
SITE CHARACTERISTICS	Open grassy field between 2 properties (nos. 45 and 51) on Golden Avenue. Agricultural field at the rear.
CHARACTER OF LOCALITY	Sub-urban character. Residential street within the Built-Up Area Boundary of Kingston.

RELEVANT SITE HISTORY		
K/2/65	House & Garage	ApproveConditionally 20-04-65

Approval in 1965 for a house and garage on the site.

REPRESENTATIONS

Kingston Parish Council -

No objection, providing the case officer considers whether conditions are required to prevent overlooking of neighbouring properties from the balcony.

1 letter of representation was received, summarised as follows:

- Request condition that solid panel site hoarding to minimum height of 2.4m, instead of mesh fencing, be installed between plots of nos. 45 and 47 to protect the amenity of the occupants at no.45.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted and addressed in Conclusions section of report.

Re construction hoarding - in the event of planning permission being granted, a planning condition could be applied requiring the submission of a Construction Management Plan to include details of hoarding etc. to protect neighbouring residential amenity.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Environmental Health -

No objection.

Recommend planning conditions, including standard construction hours, a Construction Management Plan and unsuspected land contamination.

WSCC Highways -

No objection.

The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

ADC Drainage Engineer -

No objection.

Due to the location, scale, and type of application have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with Building Regulations. The applicant should be aware that there is a watercourse on the boundary. If they propose to connect surface water to or make any alterations to this watercourse (culvert, bridge, divert flow etc) then they will need to apply for ordinary watercourse land drainage consent via West Sussex County Council.

Ecology Officer -

Objection.

Extended Phase 1 Habitat Survey (and any further species-specific surveys and mitigation strategies) are required prior to determination of the application. Biodiversity Net Gain will also need to be demonstrated.

Tree Officer -

Objection.

No Tree Report and Plan submitted.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:

Built-Up Area Boundary (BUAB)

Adjacent to Countryside (outside BUAB) at rear

Prone to groundwater flooding

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WDM1	WM DM1 Waste Management
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment

<u>Kingston Neighbourhood Plan 2014 Policy KPNP1</u>	The Presumption in Favour of Sustainable Development
Kingston Neighbourhood Plan 2014 Policy KPNP2	BUILT-UP AREA BOUNDARY
Kingston Neighbourhood Plan 2014 Policy KPNP4	NATURAL ENVIRONMENT
Kingston Neighbourhood Plan 2014 Policy KPNP5	WATER
Kingston Neighbourhood Plan 2014 Policy KPNP7	DESIGN & DEVELOPMENT
Kingston Neighbourhood Plan 2014 Policy KPNP9	TRANSPORT INFRASTRUCTURE

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework

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 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 policies in the Kingston Neighbourhood Plan (made 2015) are relevant.

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."

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.

The proposal is considered to fail to comply with relevant Development Plan policies in that it has not been demonstrated that protected species and wildlife would be adequately protected from the development proposals, nor that trees and hedgerows of amenity value would be protected, contrary to policies ENV DM5 and ENV DM4 of the Arun Local Plan and policies KPNP 4 and KPNP 7 of the Kingston Neighbourhood Plan.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan. The other material consideration is the Council's current lack of a 5 year housing land supply, which means in the case of applications for housing provision, where development is sustainable, the National Planning Policy Framework's 'presumption in favour of sustainable development' is engaged. The impact of the proposals must therefore be assessed against the 'presumption in favour' in the tilted balance.

CONCLUSIONS**KEY ISSUES:**

The key issues in the determination of this application are as follows:

- Principle
- Visual impact
- Residential amenity impact
- Quality of new accommodation
- Site access, parking provision and impact on highways
- Drainage
- Ecology
- Trees

PRINCIPLE:

The proposals seek planning permission for a new dwelling within the Built-Up Area Boundary (BUAB). This accords with Arun Local Plan (ALP) policy SD SP2 which seeks to focus new development within the BUABs. It also accords with Kingston Neighbourhood Plan (KNP) policy KPNP 2 which states development will be permitted within the BUAB, subject to all other policies in the Neighbourhood Plan. The proposed development is therefore acceptable in principle in this location, and would be considered 'sustainable development'.

VISUAL IMPACT:

Para 124 of the National Planning Policy Framework (NPPF) 2021 states that planning decisions "should support development that makes efficient use of land, taking into account..." amongst other things "(d) the desirability of maintaining an area's prevailing character and setting (including residential gardens)". Para 130 requires that applications for developments (b) are visually attractive as a result of good architecture and (c) are sympathetic to local character and history, including the surrounding built environment. Para 134 states "Development that is not well designed should be refused".

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including; character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees and crime prevention. New buildings should be harmonious with their surroundings and successfully integrate with the surrounding environment.

Arun District Council Design Guide SPD (2021) provides detailed design guidance for developments in the District. This includes Section P.01 on Infill Development which provides detailed guidance on infill gap sites.

Policy KPNP 7 of the KNP provides design criteria for new development, including in respect of siting, design, and ensuring it is in scale with adjacent buildings.

The application site forms a gap in the existing built form and the current street scene which is characterised by linear development either side of Golden Avenue on evenly spaced plots. As such, the addition of a building on the site and its plot size would reflect the established pattern of development in the area. The new dwelling would have a similar front building line to the properties adjacent either side, again reflecting the established pattern of development in the area. The new dwelling would be 2 storey and reflect the general scale, width and height of properties adjacent either side and in the wider street scene. The main hipped roof form would also reflect pitched roof forms of other properties in the street.

The design would feature balconies front and rear, multi-paned windows and doors with horizontal glazing bars, and a pillared double height front porch. It would have somewhat of a seaside villa architectural style mixing 1930s features and a more contemporary approach. The proposed materials and finishes for the elevations, roof and fenestration are unclear since the application form nor drawings

clearly describe these. Notwithstanding this, it is noted that there are a range of designs and materials/finishes to properties along Golden Avenue, so the proposed design is acceptable and a planning condition could be used to secure details of the materials and finishes to ensure a sympathetic appearance within the street scene.

In conclusion, the proposals would make an efficient use of land within the BUAB and would have an acceptable impact on the character of the street scene and visual amenity of the area, in accordance with the NPPF, ALP policies D SP1 and D DM1, policy KPNP 7 of the KNP, and the ADC Design Guide SPD.

RESIDENTIAL AMENITY IMPACT:

Para 130 (f) of the NPPF states development should have a high standard of amenity for existing and future users.

Policy D DM1 of the ALP states new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. Policies QE DM1, QE DM2, QE DM3 and QE DM4 relate to noise, light, air and land pollution and the need for impacts from development to be controlled.

The ADC Design Guide SPD includes detailed guidance on the protection of residential amenity, including setting out the required distances between properties to accord with the 45 and 25 degree tests for daylight/sunlight (Section G.03), required separation distances between habitable rooms to ensure privacy (Section H.04), measures to maintain privacy (Section J.02) and minimisation of impacts of noise and overshadowing (Section J.06).

Policy KPNP 7 of the KNP states that development will be supported if iv) It has a minimal impact on users and occupiers of nearby property and land and does not cause loss of sunlight, over-shadowing, over-looking issues, loss of privacy, anti-social noise/disturbance or have an over-bearing presence.

The siting and scale of the proposed new dwelling, and the arrangement and type of windows to the 2 adjacent properties either side (nos. 45 and 51), mean it is considered it would not result in significant overbearing, overshadowing nor loss of outlook or light. The proposed ground floor side-facing windows would be primarily screened behind the side boundary treatments (which could also be conditioned to a certain type/height) so would not allow for inter-visibility between the new property and the neighbouring properties either side. The proposed first floor side-facing windows would serve a bathroom and an ensuite (i.e. non habitable rooms) so could be conditioned to be obscure-glazed and fixed shut to a height of 1.7m to avoid any overlooking towards the neighbouring properties on either side. The front balcony would be a sufficient distance (approx. 31m) from opposing habitable room windows (at no. 48) and would be street facing and so would not be considered to result in any intrusive overlooking. The rear balcony could potentially provide some angles of view sideways and back toward the side and rear windows at nos. 45 and 51 either side. As such, a planning condition could be used requiring the installation of a privacy screen (obscure glazed and to minimum height of 1.7m) on either side of the rear balcony to avoid any overlooking to the neighbouring properties on either side.

The Council's Environmental Health Officer has confirmed no objection to the application, subject to planning conditions, including standard construction hours, a Construction Management Plan and unsuspected land contamination, to ensure occupants and neighbouring residents are suitably protected from noise, light, air and contamination pollution.

In conclusion, the proposals would, subject to planning conditions, have an acceptable impact on residential amenity, in accordance with the NPPF, policies D DM1, QE SP1, QE DM1, QE DM2, QE DM3 and QE DM4 of the ALP and policy KPNP 7 of the KNP.

QUALITY OF NEW RESIDENTIAL ACCOMMODATION:

Policy D DM2 of the Arun Local Plan requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Section J.08 of the ADC Design Guide SPD reiterates the need to comply with the national internal space standards. The "Nationally Described Space Standards" provide the current guidance on minimum space standards. The application proposes a 2 storey, 4 bedroom, 7 person dwelling. The minimum Gross Internal Area (GIA) for which, according to the standards, would be 115sqm GIA with 3sqm built-in storage. The proposed floor plans indicate a GIA of over 200sqm which would well exceed the national internal space standards and comply with policy D DM2 of the ALP.

There are no specific policies in the Arun Local Plan with regard to external amenity space. Section 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 for occupants. It sets out a minimum depth of 10.5m for rear gardens. The new home would be provided with a private, sufficiently sized rear garden of regular rectangular shape, which would be of a sufficient size and suitable shape, and with a mix of lawned and patio areas, to be functional and enjoyable and serve the occupants of a 4 bed dwelling. It would have a depth of around 21m, well exceeding the ADC Design SPD's recommended minimum 10.5m. As such, it would be acceptable and accord with the ADC Design Guide SPD.

Policy WM DM1 of the Arun Local Plan requires new residential development to ensure that kerbside collection is possible for municipal waste vehicles and bin storage provision is made as follows:- Each unit should be provided with the equivalent of 240 litres of residual waste storage/bins. The same amount of storage space/bins for recyclable materials is required to be provided. It is recommended that any waste storage provision is located near or adjacent to the highway, so that the maximum refuse pulling distances and refuse vehicles access requirements are complied with. Section H.07 of the Design SPD, requires that attractive bin storage (providing screening for bins) should be integrated into the design of new housing. The Proposed Site Plan shows the provision of 3 wheelie bins within the front driveway area, and assuming these are 240l bins this should be sufficient to serve the new dwelling. Kerbside collection could take place from Golden Avenue. A planning condition could be used to secure this bin storage.

SITE ACCESS, PARKING AND HIGHWAYS IMPACT:

Para.110 of the NPPF states in assessing specific applications for development it should be ensured that (b) safe and suitable access to the site can be achieved for all users. Para. 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. ALP policy T DM1 requires development to make provision for facilities for sustainable modes of transport such as cycling, to meet the parking standards, including cycle storage. The ADC Design SPD (Sections I.01, I.02 and I.03) includes guidance on the provision and design of car parking, electric vehicle bays and charging points, and cycle parking. The ADC Parking Standards (SPD) sets out the vehicle/cycle and EVCP parking standards.

Policy KPNP 7 of the KNP states new development will be supported if (vii) It provides sufficient off-road car parking for its intended use. Policy KPNP states development will be supported which (iv) Makes provision for off-road parking for all vehicles intending to use the development.

The Local Highways Authority (WSCC) have provided comments, summarised as follows;

The site is located on Golden Avenue, a privately maintained road; consequently, these comments should be considered as advice only. WSCC in its role as Local Highway Authority (LHA) raises no highway safety concerns for this application.

The application proposes a new in/out access onto Golden Avenue. The applicant is advised to contact the proprietor of the privately maintained road to obtain formal approval for the proposed access works. From inspection of the plans, there are no apparent visibility issues with the proposed points of access. The LHA does not anticipate that the addition of one dwelling would give rise to a material intensification of movements to or from the site.

For vehicular parking, the application proposes a double-bay integral garage with driveway. Under Arun Parking Standards SPD, the LHA would expect a dwelling of this size in this location to provide at least 3 on-site car parking spaces. Therefore, the LHA considers the proposed parking provision to be sufficient. From inspection of the plans, the garage and driveway are suitably sized to accommodate the parking requirement and on-site turning appears achievable.

In the interests of sustainability and as result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes. The applicant is advised that for dwellings with an off-street parking provision, 100% of parking spaces should be provided with active EV parking spaces in accordance with the Arun Parking Standards.

Regarding cycle parking, the garage is of a suitable size to be considered for secure cycle storage, in accordance with Arun Parking Standards SPD. The inclusion of cycle parking helps promote the use of sustainable transport methods.

In conclusion, subject to planning conditions to secure vehicular and cycle parking and EVCP provision, the proposals would provide a safe and suitable access, and adequate parking and EVCP provision, and would not give rise to unacceptable highways safety or operation impacts. The proposals would therefore accord with the NPPF, ALP policies T SP1 and T DM1, KPNP policies 7 and 9 of the KNP and the ADC Parking SPD (2020).

DRAINAGE:

ALP policy W DM2 sets out the requirements for development in areas at risk of flooding, including; the need for the sequential test, an FRA, adaptation and mitigation measures, flood warning and evacuation plans and site drainage plans. ALP policy W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The ADC Design Guide SPD (Section K.04) requires that development incorporate Sustainable Drainage Systems (SUDs) and flood risk mitigation.

Policy KPNP 5 of the KNP relates to flood risk and drainage, and policy KPNP 7 states development will not be permitted where 2 (i) Any change in nature of front gardens includes predominately impermeable surfaces.

The site is in Flood Zone 1 (lowest risk of flooding) and the plot is smaller than 1 hectare. As such, a

Flood Risk Assessment nor flood mitigation measures are required. The site is not in any other special drainage designation but mapping suggests it is prone to groundwater flooding.

The Council's Drainage Engineer has commented, summarised as follows;

Due to the location, scale, and type of application Drainage Engineers have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with Building Regulations. The applicant should be aware that there is a watercourse on the boundary. If they propose to connect surface water to or make any alterations to this watercourse (culvert, bridge, divert flow etc) then they will need to apply for ordinary watercourse land drainage consent via West Sussex County Council.

The proposals would result in the development of existing permeable grassy land to a new building and hardstanding driveway and patios. There would be an increase in impermeable areas on site. As such, SUDs measures such as all hardstanding being fully permeable and inclusion of a soakaway and/or water harvesting etc. should be incorporated into the scheme, to ensure compliance with policy W DM3 of the ALP.

The application form confirms the new dwelling would connect with the existing public sewer network. Southern Water have not provided any comments. However, it is expected that SW's standard conditions and informatives would apply e.g. a formal application would need to be made by the developer to SW to connect to the public sewer.

In conclusion, the proposals would not result in unacceptable flood risk on site or elsewhere and would, subject to planning condition, incorporate SUDs measures and be adequately drained, in accordance with policies W DM2 and W DM3 of the ALP, and policies KPNP 5 and 7 of the KNP.

ECOLOGY:

In terms of legislation, development will need to avoid impacts on legally protected species, and where this is not possible, mitigation or compensation will be necessary and a Licence from Natural England may be required. Paras 174 and 180 of the NPPF indicates that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the Environment Act and the NPPF. ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

KPNP policy 7 states new development will be permitted where (ii) It seeks to protect and enhance onsite habitats and associated networks thus protecting biodiversity. Policy KPNP 4 states planning permission will normally be granted for development provided (i) It would contribute positively to the quality of the natural environment of Kingston Parish whilst having due regard to Natural England's standing advice for protected species, and not be detrimental to the biodiversity of the area.

The Council's Ecology Officer has stated that due to the long vegetation sward, dense bramble and adjacent farmland (with intact hedgerow), which can provide habitat for a number of protected species such as reptiles, bats and birds, that an extended Phase 1 Extended Habitat Survey is required. This is required prior to determination of an application to establish if protected species are present and if so further species-specific surveys and mitigation strategies would be required. In addition, enhancements to improve biodiversity across the site should be incorporated and these should be discussed within the ecological surveys and shown within the landscaping plans.

No Phase 1 Habitat Survey has been submitted with the application. No Biodiversity Net Gain Plan has been submitted either. Whilst the BNG measures could be secured by way of a planning condition, the

Phase 1 Habitat Survey would be required prior to determination of the application to establish if protected species are present, and the impact the development would have on the surrounding environment, and if protected species are found to be present further species-specific surveys and mitigation strategies would be required.

In the absence of this information, there has been a failure to demonstrate that legally protected species would be adequately protected from the proposed development, contrary to the NPPF, policy EMV DM5 of the Arun Local Plan and policies KPNP 4 and 7 of the Kingston Neighbourhood Plan.

TREES:

ALP policy ENV DM4 seeks to protect trees with TPOs, identified as Ancient Woodland, in Conservation Areas, or that contribute to local amenity.

Policy KPNP 4 of the KNP states that development will be supported where "(iii) It does not entail any loss of trees or hedgerow, ancient or otherwise, that contribute to local amenity; and incorporates tree planting, in particular native species in context with the local landscape character, as an integral part of any development proposals, where possible".

The Council's Tree Officer has commented, summarised as follows:

It has been stated (application form, sect.10) that there are no trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character. That may well be the case, although aerial photography and architect's plans show several off-site trees which may overlap the site (by crown spread and/or root growth) so could be adversely affected by these proposals.

There is no supporting arboricultural information submitted with the application - a requirement of BS5837:2012. As such, were this development applied for to now proceed, we will not have sufficient information to guarantee any trees and hedges have been adequately considered and would be protected.

The principle of development as described appears achievable in arboricultural terms although we are yet to have sight of the necessary report and plans. As it stands, I could not lend this scheme my support.

The recommendations are as follows;

1. The applicants will need to employ the services of an Arboricultural Consultant to carry out a tree survey exercise and then prepare an Arboricultural Impact Assessment (AIA) which must be inclusive of; a 'Tree Survey Schedule', a 'Root Protection Area (RPA) Schedule' and a 'Tree Constraints Plan' - with the trees accurately plotted on same.
2. In the event that an RPA of any tree which is proposed for retention overlaps the development then BS5837:2012 requires that the Detailed Planning Application is accompanied by an Arboricultural Method Statement (AMS) and most importantly a Tree Protection Plan - to both describe and illustrate the mitigation measures which are to be employed to ensure that the trees survive without detriment to their vigour and vitality and are given adequate protection both above and below ground.

In conclusion, due to a lack of arboricultural information, there has been a failure to demonstrate that trees would be adequately protected from development, contrary to the NPPF, British Standards, policy ENV DM4 of the Arun Local Plan, and policy KPNP 4 of the Kingston Neighbourhood Plan.

SUMMARY:

The proposals are acceptable, subject to planning conditions, in terms of the principle of new residential development within the BUAB, the provision of quality new living accommodation and the visual and residential amenity, parking and highways, and drainage impacts. However, due to a lack of ecology and arboricultural information, there has been a failure to demonstrate that legally protected species and trees and hedgerows of amenity value would be adequately protected from the proposed development. The application would therefore conflict with policies ENV DM5 and ENV DM4 of the Arun Local Plan and policies KPNP 4 and KPNP 7 of the Kingston Neighbourhood Plan.

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."

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.

It is considered that there is an other material consideration to be weighed in the balance with the Development Plan, in the form of the Council's current lack of a 5 year housing land supply. This means in the case of applications for housing provision (such is the case here), where development is sustainable (such is the case here), the National Planning Policy Framework's 'presumption in favour of sustainable development' is engaged. The impact of the proposals and the conflict with Development Plan policies must therefore be assessed against the 'presumption in favour' in the tilted balance.

The first assessment is whether the proposals represent 'sustainable development'. Paragraph 8 of the National Planning Policy Framework outlines the three overarching objectives to achieve sustainable development in the planning system; comprising economic, social and environmental objectives. The development would provide opportunities for local construction jobs, Council Tax receipts from a new home and spending in the local economy (economic). The development would contribute to the provision of a range of homes that could meet the needs of present and future generations (social). The new dwelling would be in a sustainable location within the BUAB and not rely on use of the private vehicle (environmental). As such, the proposals are concluded as being overall 'sustainable development'.

The second assessment then is in applying the presumption in favour of sustainable development for decision taking which means granting permission unless (paragraph 11(d)):

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significant and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

Paragraph 11(d)(ii) makes clear that decisions should be taken in accordance with the policies in the Framework unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits. In this case, it is concluded that the potential impacts on legally protected species and trees and hedgerows of amenity value would be both significant and demonstrable and would outweigh the benefits of the contribution of 1 new dwelling to the housing supply. As such, in the tilted balance the conflict with the Development Plan would outweigh the presumption in favour and the proposals would not benefit from the NPPF's presumption in favour of sustainable development.

The application is therefore recommended for refusal, 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.

CIL DETAILS

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

RECOMMENDATION

REFUSE

- 1 Due to a lack of ecology information (Extended Phase 1 Habitat Survey, and any subsequent species-specific surveys and mitigation strategies which may be required), there has been a failure to demonstrate that legally protected species would be adequately protected from the proposed development. The application is therefore contrary to the National Planning Policy Framework (2021), policy EMV DM5 of the Arun Local Plan and policies KPNP 4 and KPNP 7 of the Kingston Neighbourhood Plan.
- 2 Due to a lack of arboricultural information (Tree Survey, Tree Protection Plan and Arboricultural Method Statement as appropriate), there has been a failure to demonstrate that trees and hedgerows of amenity value would be adequately protected from the proposed development. The application is therefore contrary to the National Planning Policy Framework

(2021), British Standards, policy ENV DM4 of the Arun Local Plan, and policy KPNP 4 of the Kingston Neighbourhood Plan.

- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the potential harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible at this time.