

Recommendation Report for Planning Permission

REF NO: WA/100/25/PL

LOCATION: Sunny Corner
Copse Lane
Walberton
BN18 0QH

PROPOSAL: 1 No. self build dwelling, garage and outbuilding with associated landscaping. This application is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as a new dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	2018sqm.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the development.
BOUNDARY TREATMENT	Mature planting and close board fencing to most of the west and southern boundaries. Mature planting to the east boundary with post and rail fence and gate at access. Part of the west boundary, to the northern end of the plot features Heras fencing adjacent to the edge of the Ancient Woodland.
SITE CHARACTERISTICS	The site forms part of an open area of modified grassland to the front of a large, residential pot. It is, in essence, a large area of open front garden with an access track running up its west side toward the existing dwelling 'Sunny Corner'.
CHARACTER OF LOCALITY	The area is primarily characterised by residential dwellings, dense woodland, and agricultural land. It is within an area defined as 'Countryside' and its narrow lanes have a distinct rural character, with residential dwellings often being detached, on low density plots, set back from the street and partly obscured by front boundary planting. To the southwest along West Walberton Lane, there is a more notable residential character as dwellings are often more visible from the street and a recent residential development has come forward (immediately west of the site). Overall, the area has a semi-rural character.

REPRESENTATIONS

Walberton Parish Council - No response.

6 letters of No Objection received from nearby occupiers:

- Concerns regarding the management of surface water and associated flooding.
- Concerns regarding disruption and damages to Copse Lane (a non-adopted highway) that may arise

during construction.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. For clarity, potential damages to a third party land, such as Copse Lane, during the development process are not a material planning consideration. Any such damages would be a private matter to be resolved, and cannot inform or influence the determination of this application.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Ecologist - Objection:

- The development is within 15m of an Ancient Woodland. Standing advice recommends a buffer of at least 15m is created to protect the woodland.
- The proposed site plan suggests the development is within the root protection zone of the trees on the site.
- No assessment of tree impacts has been provided.
- The plans do not show any habitat creation to mitigate impacts.
- The PEA notes ponds nearby and that significant records of dormice exist but no surveys have been undertaken.
- It is unclear if the northern boundary with the woodland is modified grassland right up to the boundary or if any other habitat exists.
- There are piles of cut timber suitable for reptiles and GCN hibernacula.
- Although the site is exempt from BNG under the self-build exemption, a BNG assessment has been provided which indicates a loss of 59% of habitat units on the site.

ADC Drainage Engineers - Objection:

- Full detailed comments can be found on the Arun website and have been sent to the agent.
- Objections received on Standards 1, 3, and 7 of the National Standards for Sustainable Urban Drainage Systems (NSfS). No objection (subject to conditions) was received for all other standards. The below is a summary of the objections raised.
- It is proposed that surface water is drained to a shallow seepage trench, allowing some infiltration, but to predominantly direct water off site via natural flow paths to the north-west, ultimately discharging to ponds and a watercourse.
- No formal layout has been provided.
- Although infiltration is the preferred surface water disposal method in the hierarchy, following water reuse, it has not been demonstrated that a fully infiltrating scheme is unviable, nor has the extent to which infiltration could be maximised at each discharge location been clarified.
- Neither infiltration testing or winter groundwater monitoring have been undertaken appropriately, and insufficient results have been provided to justify partial infiltration. Winter groundwater monitoring is required to confirm peak groundwater levels and that at least 1metre of unsaturated ground can be maintained between the base of any infiltration structure and the peak groundwater level.
- The data collected suggests high groundwater levels and has been used to justify limiting infiltration but the monitoring is not in accordance with the SuDS Manual and not considered reliable. For a site of this scale, a minimum of two consecutive months monitoring with regular readings is required, and all data, including the locations of monitoring points, should be clearly shown on a plan. (See guidance:<https://www.arun.gov.uk/groundwater-monitoring>).
- Insufficient information has been provided on the site's natural drainage characteristics, flow routes, or the receiving watercourse in relation to the proposed alternative discharge location should full infiltration prove unfeasible. The LLFA (WSCC), as the risk management authority for the ordinary watercourse,

has not been consulted, and no evidence has been submitted to demonstrate agreement on discharge rates, volumes, or flow parameters, as required by the NSfS. LLFA consent may also be required for any works to the watercourse.

- Arun District Council's consent relating to the Land Drainage Bylaws may also be required. Please contact land.drainage@arun.gov.uk.
- If permission from the relevant authority is not obtained for the principle of discharging to the watercourse, then it is unclear how the applicant may drain surface water from the site.
- It is also noted that drainage would need to be directed via a section of ancient woodland. As it cannot be allowed to informally drain and formal drainage features would be required. No evidence has been submitted to show that there would be no conflict between the SuDS features and the Ancient Woodland.
- It has not been demonstrated that the site can be drained sustainably, an objection is, therefore, raised to the proposal.
- No modelling or supporting evidence, including ground investigations, discharge rates, volumes, or drainage plans, has been submitted for engineering assessment. In the absence of this information, it is not possible to assess whether the proposed surface water drainage would increase flood risk. The proposal therefore fails to accord with the NPPF, and an objection is raised.
- Insufficient information has been provided on the construction, operation, and maintenance of the proposed SuDS, contrary to Standard 7 of the NSfS. As the SuDS appear to route through a significant wooded area, this may affect their scale, layout, and location, and cannot be appropriately addressed by condition. Accordingly, an objection is raised, and details of existing trees and drainage plans demonstrating no conflict with SuDS features are required to ensure compliance with Standard 7.
- These matters of objection cannot be resolved by way of condition as they are fundamental to the scheme and the conditions may not be able to be discharged, resulting in a permission that is unimplementable.

South Downs National Park - No comment.

Natural England - No objection.

Southern Water:

- Portsmouth Water are the relevant water supplier.
- Insufficient information provided.
- Condition requested regarding details of the foul water disposal to be approved in consultation with Southern Water.
- Tree planting guidance provided.
- Condition requested regarding the protection of public sewers from landscaping proposals.
- Guidance relevant to SUDS and soakaways provided.
- Advising that Building Control/technical staff should advise regarding the surface water disposal methods and the SUDS hierarchy and suggesting a condition to this effect.
- Advice that S.106 applications are required in respects of any new sewer connections required.

WSCC Highways:

- The addition of a single dwelling is not anticipated to give rise to a significant material increase in movements on the local highway network.
- Parking and access is sufficient in line with the Arun Parking Standards.
- On-site turning appears achievable, allowing cars to exit the site in a forward gear.
- The proposed garaging can be utilised for the secure storage of bicycles.
- Do 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 116), and that there are no transport grounds to resist the proposal.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
 Outside Built-up Area Boundary.
 Adjacent to Woodland TPO (TPO/WA/1/25).
 Adjacent to Ancient Woodland (Potwell Copse).
 Potentially Prone to Groundwater Flooding ($\geq 75\%$).
 Lidsey Wastewater Treatment Catchment Area.
 HRA Buffer for Singleton & Cocking Tunnels SAC.

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

CSP1	C SP1 Countryside
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
ENVSP1	ENV SP1 Natural Environment
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ECCSP2	ECC SP2 Energy and climate change mitigation
QESP1	QE SP1 Quality of the Environment
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

[Walberton Neighbourhood Plan Policy 2019-2031 HP1](#) Built up boundary (BUAB)

Walberton Neighbourhood Plan Policy 2019-2031 HP2 Windfall sites

Walberton Neighbourhood Plan Policy 2019-2031 HP11 Housing Density

Walberton Neighbourhood Plan Policy 2019-2031 HP13 Design Guidance

Walberton Neighbourhood Plan Policy 2019-2031 7 Biodiversity Corridors
 VE10

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

REPORT_1011(ODB)

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 complies with relevant Development Plan policies in that it represents a development of high visual amenity and appropriate density and scale that does not compromise neighbouring residential amenity and has sufficient parking.

The proposal is in conflict with relevant Development Plan policies in that it would have an unacceptable risk of deterioration and harm to an irreplaceable habitat, has not been supported by sufficient protected species surveys, has not been confirmed to be safe from flood risk for its lifetime, and it has not been demonstrated that the development could be viably and sustainably drained without increasing flood risk elsewhere.

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

In the absence of a completed S.106 agreement as described above, the development would not comply with any exemption set out in paragraph 17 of Schedule 7A of the Town and Country Planning Act. Therefore, the statutory BNG requirements apply to the proposed development.

The proposal contains the minimum information required by Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 for the purposes of statutory BNG, but a

10% increase in biodiversity relative to the pre-development onsite habitat has not been demonstrated.

Nonetheless, discounting potential deterioration of the Ancient Woodland as directed in Paragraph: 042 Reference ID: 74-042-20240214, it is likely that the Statutory BNG condition could be discharged through the use of offsite credits, which is acceptable in this context, and had this application been recommended for approval, either the completion of the relevant S.106 agreement would have been awaited, or the Statutory BNG condition could have been applied and the matter resolved prior to commencement of the development.

CONCLUSIONS

PRINCIPLE

The development is outside the Built-up Area Boundary (BUAB) and, therefore, in conflict with Arun Local Plan (ALP) policy SD SP2, and Walberton Neighbourhood Development Plan (WNDP) policy HP1. Development outside the BUAB is permitted by ALP policy C SP1 of the ALP subject to specified criteria. The proposal does not meet any of the criteria specified within this policy and, therefore, in conflict with policy C SP1.

The NPPF is an important material consideration in determining applications. As the council cannot demonstrate a 5-year HLS, para 11(d) of the NPPF and the application of the 'presumption' for sustainable development could be triggered. Paragraph 11(d) of the NPPF 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 applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7 of the NPPF states: 'The policies referred to are those in this Framework (rather than those in development plans) relating to... irreplaceable habitats... and areas at risk of flooding...'.

For the reasons outlined below within this report, the proposals would have an unacceptable risk of harms and deterioration of an irreplaceable habitat, and insufficient information has been submitted to confirm whether the site is at risk of groundwater flooding and/or whether it would be safe for its lifetime as a result. These form a strong reason to refuse the development. As such, the presumption in favour of sustainable development is disapplied in accordance with Paragraph 11d(i).

CHARACTER AND DESIGN

The existing site comprises an area of modified grassland that serves as part of the front residential garden to 'Sunny Corner'. The site is met by residential development to the north, east, south, and west, but also an Ancient Woodland immediately to the northwest.

Residential development within the area is typically characterised by detached dwellings within low density plots, set back from the road and featuring mature boundary planting. With the exception of the recent residential development to the west, dwellings within the area do not tend to share uniform or regular designs, all expressing individuality in their architectural features and material palette, albeit these features are often unified in traditional styles rather than contemporary.

The proposed dwelling is of a bespoke design with a mix of traditional and contemporary design cues. It

comprises a primarily single storey dwelling but with a converted roof space, and features a front gable ended porch, a front dormer with gable end, exposed rafters, a single-storey rear gable ended projection, and a two-storey gable ended projection that acts as a voided roof above the living space and allows confined views from the first-floor gallery toward the rear of the dwelling. The material palette would consist of facing brickwork, clay roof tiles and tile hanging, aluminium windows, black aluminium rainwater goods, vertical timber cladding, an Oak framed pergola and Oak louvres.

The proposal also includes a detached double garage and a detached outbuilding workshop, both with unified designs but of different sizes, featuring half-hipped clay tile roofs, exposed rafters, blackened timber boarding, facing brickwork plinths, and timber clad doors. The garage would serve as parking, while the outbuilding would serve as a workshop and store.

There would be a permeable gravel driveway and parking area to the front of the site, footpaths throughout the plot, 2m boundary fencing, indicative planting proposals to boundaries and with the amenity areas, and two timber access gates (one for pedestrian access and one for vehicles).

The proposals would retain sufficient intervening and surrounding grounds such that the site would not appear overly cluttered, and there would remain a clear sense of spaciousness to the plot, reflective of the low-density plots in the surrounding area.

The proposal is a well-thought-out scheme in terms of design, layout, materiality, and scale, and would be commensurate to the character of existing residential development within the area. It is in infill development with multiple components but maintains a relatively low building height and sits comfortably within its plot, with ultimately acceptable separation distances from neighbouring buildings.

As such, it would not have any adverse impacts on the visual amenities or character of the area in accordance with ALP policies D SP1 and D DM1, and WNDP policies HP11, HP13, and HP2 (in regard to character and design).

While the proposal lies outside of the Built-up Area Boundary and is in conflict with ALP policies SD SP2 and C SP1 as a result, it is material that the development is met by residential development to all direction, a dense woodland to the northwest, and makes use of an existing residential access. The proposal would not result in any unacceptable harms to the character of the area or the spatial strategy in this location, despite the policy conflict.

QUALITY OF ACCOMMODATION

The proposed dwelling is of two storeys for the purposes of considering the Nationally Described Space Standards (NDSS). The proposal has an internal floorspace of approx. 316sqm and has three double bedrooms with sufficient widths, areas, and access to natural light. The dwelling is well in excess of the minimums outlined within the NDSS and as such, is in accordance with ALP policy D DM2.

The proposal includes a large private amenity space well in excess of the minimum 10.5m depth outlined within Section H.04 of the Arun Design Guide and that provides ample residential amenity.

The proposal is in accordance with ALP policies D DM2 and QE SP1 in these respects.

NEIGHBOURING RESIDENTIAL AMENITY

The proposed garage and dwelling are sufficiently separated from neighbouring properties such that they would have no adverse overbearing or overshadowing impacts.

The proposed workshop outbuilding is immediately adjacent the southern boundary shared with 'Oakleigh Cottage'. The cottage is sited further southwest within the plot, but it does feature two

outbuildings in proximity to the shared boundary and the proposed workshop outbuilding. The existing outbuildings at 'Oakleigh Cottage' do not appear to be habitable spaces, and in any event, are single storey ancillary structures to the main house. They are also situated a short distance from the shared boundary. The proposed outbuilding would not result in any unacceptable overbearing or overshadowing impacts on 'Oakleigh Cottage'.

The proposal would introduce first-floor viewpoints. The window to the side elevation (south) serves an ensuite bathroom and would, therefore, likely be obscure glazed. It would not be necessary to condition this window to be obscure glazed despite facing toward 'Oakleigh Cottage' given the sufficient separation distance to the boundary (this may change if the dwelling was relocated in a further submission).

The front rooflights and dormer would look out to the front of the site and the street which would not impact neighbouring amenity.

First-floor views facing west would be available from the rear rooflight, and at mezzanine level from deeper within the dwelling, through the shrouding gable ended feature to the rear and its louvres. These views are directed more to the northwest at the woodland rather than the neighbouring property to the west. As a result, there would be no unacceptable overlooking impacts.

The proposals would not give rise to any unacceptable adverse impacts on neighbouring residential amenity in accordance with ALP policies QE SP1 and D DM1.

TREES

The proposal has not been supported by an arboricultural assessment. It is, however, clear that the applicant is aware of the Ancient Woodland and TPO status of the woodland to the northwest of the site. There are also multiple trees on site that do not fall within the remit of the TPO or the Ancient Woodland but may be impacted by the development due to root network incursions or the need to be removed to facilitate the works. The extent of such impacts, however, is unclear in the absence of relevant assessments.

Ancient Woodland is an irreplaceable habitat, and Paragraph 193(c) of the NPPF states, amongst other things, the following 'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;'.

Footnote 70 of the NPPF identifies some examples of exceptional circumstances such as, 'infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat'. The proposal does not involve/meet any such exceptional circumstances.

ALP policy ENV DM4 largely reiterates the principles and requirements outlined above in relation to Ancient Woodland, and its preamble makes clear that 'development involving its loss or damage shall be avoided at all costs unless exceptional circumstances to merit any loss, can be justified.' This policy also requires the protection and preservation of trees covered by a TPO unless relevant criteria are met.

ALP policy ENV DM5 requires, amongst other things, that proposals protect existing habitats on site.

When assessing the potential direct and indirect impacts of a development on Ancient Woodlands, arboricultural and ecological assessments should be provided where relevant. A minimum of a 15m buffer zone (larger if impacts are still likely to occur) should also be created between development proposals and Ancient Woodlands to prevent damages to root networks. The proposals are well within 15m of the Ancient Woodland, and construction/storage of materials could occur within this buffer. Thus,

the proposal would likely result in its deterioration as a result.

In the absence of an Arboricultural Assessment, it is also unclear whether any trees on site should be subject to a further TPO, for example, the large Oak Tree a short distance southwest of the northwest corner.

The Council's Tree Officer was consulted but has not been able to provide comment at this time. Even in the absence of these expert comments, however, it remains clear that the proposal has not been supported by sufficient information to adequately consider the potential impacts of the development on the Ancient Woodland to the northwest of the site, and that by virtue of the siting of the development and potential for construction works within 15m of the Ancient Woodland, there would be an unacceptable risk of damage and harms to this irreplaceable habitat and TPO.

The proposals would give rise to an unacceptable risk of damage and deterioration to the Ancient Woodland habitat and TPO trees to the northwest of the site in conflict with ALP policies ENV SP1 and ENV DM5, and WNDP policy HP2.

ECOLOGY AND BIODIVERSITY

The proposal is identified as, and understood to be, a self-build development. It has, however, been supported by Statutory Biodiversity Net Gain (BNG) information, including a baseline habitat assessment. The baseline plan identifies two large Oak trees in the northwest corner of the site. It is understood that the Oak tree at the furthest northwest point forms part of the adjoining Ancient Woodland. However, this has not been recorded as irreplaceable habitat within the submitted BNG details, nor has the 15m buffer zone around the Ancient Woodland. Both the irreplaceable habitat, and the 15m buffer around the Ancient Woodland should be recorded accurately within BNG details. The northwest corner of the site, adjacent to the Ancient Woodland, appears to comprise habitat of higher ecological value than the "modified grassland" classification that it has been assigned.

Irreplaceable habitats are exempt from the statutory BNG requirement, as any impact on or loss of such habitat should usually be avoided entirely in accordance with planning policy. Where irreplaceable habitats are not being lost or degraded, however, their enhancement may contribute to the post-development biodiversity value. On the basis that no buffer zone has been defined and development/construction activities would take place within 15m of the Ancient Woodland; the proposal would likely result in the deterioration of the Ancient Woodland.

When calculating the post-development BNG value of the development, it is also noted that both the existing and proposed site boundaries appear to comprise private residential garden. The post-development value of the site would, therefore be capped as proposed private residential gardens are afforded a set BNG value.

The statutory self-build exemption for BNG may apply to the development. However, a recent appeal decision (APP/C3810/W/25/3363266) confirmed that a completed S.106 agreement is required to secure a proposal as a self-build scheme. No such agreement was submitted with the application. Without it, the self-build exemption cannot be secured. Had approval been recommended, completion of a S.106 agreement could have been awaited. Similarly, a future submission or appeal could include and complete such an agreement.

In the absence of a completed S.106 securing the self-build status at this stage, however, the development does not benefit from any exemption under paragraph 17 of Schedule 7A of the Town and Country Planning Act. The statutory BNG requirements therefore apply.

The BNG submission has not accurately recorded the irreplaceable habitat on site or the required buffer

zone. The development would likely prejudice the Ancient Woodland by facilitating construction within its 15m buffer zone. As BNG requirements do not apply to irreplaceable habitats, the impacts to the Ancient Woodland must instead be assessed separately under relevant planning policy, outside the statutory 10% BNG requirements.

The NPPG indicates that it would generally be inappropriate to refuse an application on the grounds that the biodiversity gain objective would not be met as the BNG condition is a pre-commencement matter to resolve. Decision makers, therefore, need to consider more broadly whether the condition is capable of being successfully discharged.

The proposal has not accurately identified the irreplaceable habitat on site and the northwest corner appears to be of greater ecological value than modified grassland. The proposal shows a net loss of 59% of habitat units which may be an underestimate, but it is accepted that because the site largely comprises private residential garden, the achievable on-site post-development habitat value would be limited and not likely account for any retention/enhancement of the site, nor could any on-site gains be secured long-term. A measurable 10% BNG on-site is therefore unlikely to be achievable in any event. In such circumstances, off-site biodiversity units could have been used to meet the statutory 10% BNG requirement through the statutory condition and satisfy the statutory requirements.

ALP policy ENV DM5 requires developments to achieve a Biodiversity Net Gain of some value on site irrespective of the Statutory BNG requirements.

W NDP policy VE10 states the 'Development of biodiversity rich habitats shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on sites. Proposals will not be supported where there is evidence that the proposals would significantly harm biodiversity, unless it can be adequately avoided, mitigated, or alternatively the subject of compensation. Where proposals have an impact on Biodiversity rich habitats, a management plan shall be provided to ensure that the long-term protection and enhancement of the habitat can be achieved.'

The submitted BNG assessment indicates a 59% loss of onsite biodiversity value. This figure may be an underestimate, as the northwest corner of the site appears to contain habitat of greater ecological value than the "modified grassland" classification suggests. Achieving a biodiversity net gain on site is inherently difficult given the residential garden nature of both the existing and proposed site. However, unlike statutory BNG, ALP policy ENV DM5 and W NDP policy VE10 do not specifically require net gains to be secured in the long term. A compensatory planting, landscaping, and ecological enhancement scheme could have been secured by condition, and the proposal could therefore have complied with ALP policy ENV DM5 and W NDP policy VE10 in this respect.

ALP policy ENV DM5 also requires development to protect existing habitats, minimise adverse impacts, and, where protected species are present or likely to be present, provide appropriate surveys and avoidance or mitigation measures.

The Preliminary Ecological Appraisal identifies nearby ponds, significant dormouse records, and onsite log piles that are suitable hibernacula for reptiles and Great Crested Newts. However, no species-specific surveys have been undertaken. The Council's Ecologist has confirmed, based on site photographs and discussions with the Case Officer, that reptile surveys are not required at this stage. However, concern remains regarding the potential presence of Dormice venturing into the northwest corner of the site. This corner lies adjacent to the Ancient Woodland and contains shrubs and low-level vegetation that are likely to be of greater ecological value than the "modified grassland" categorisation. The presence of Heras fencing along part of the western boundary of the "Sunny Corner" plot, immediately next to the woodland also means that Dormice could feasibly access and make use of the northwest corner of the site, even if they would not venture beyond into the wider plot. A Dormouse

survey would, therefore, be required to assess potential impacts, and insufficient information has been submitted to properly evaluate effects on protected species.

The applicant is advised that reducing the red line boundary/excluding development from the Ancient Woodland and its 15m buffer, allowing it to remain entirely undisturbed, could remove the need for a Dormouse survey, as their presence in the remainder of the site would be highly unlikely. However, the alternative drainage solutions referenced in correspondence may necessitate works within or adjacent to the Ancient Woodland. Such works would likely affect this sensitive habitat, which is known to support protected species. Further protected species surveys (not just Dormouse) would therefore, likely be required to inform any revised proposal or future application and assess how the proposals may impact them. This will likely require the red edge to extend and cover the area of the proposed drainage scheme where works may be required.

Whilst the proposal could have achieved an onsite BNG in line with Statutory BNG and ALP policy ENV DM5, insufficient information has been submitted to appropriately assess and consider the potential impacts on protected species in conflict with ALP policy ENV DM5.

Additionally, the proposal will impact the 'Potwell Copse' Ancient Woodland, and no management plan for ensuring the long-term protection or enhancement of this biodiversity rich habitat has been provided in conflict with WNDP policy VE10.

ENERGY EFFICIENCY

ALP policy ECC SP2 requires all new residential development to be energy efficient and to demonstrate how they will achieve energy efficiency measures that reflect the current standards, use design and layout to promote energy efficiency, and incorporate decentralised, renewable, and low carbon energy supply systems such as solar panels. The inclusion of energy efficient materials would be required at the Building Control stage. The proposal has identified solar panels to the roof slope and a provisional location for an air-source heat pump at the garage which are both positive. To ensure that adequate decentralised, renewable, and low carbon energy supply systems would be provided, a condition would have been attached to this decision.

Subject to the relevant condition, the proposal would have been in accordance with ALP policy ECC SP2.

DRAINAGE AND FLOOD RISK

The site is within Flood Zone 1 and is not at risk of surface water flooding. The site is potentially susceptible to groundwater flood risk, with this potential being $\geq 75\%$ as identified within ADC's Strategic Flood Risk Assessment (SFRA). However, this likelihood is mapped in 1km-by-1km squares across Arun and is not in itself confirmation that an individual site is at risk of groundwater flooding, indeed, the majority of the Arun District is identified within the SFRA as having potential of being at risk of groundwater flooding to varying degrees. $\geq 75\%$ is the highest potential for groundwater flood risk within the SFRA, and as such, a Site-Specific Flood Risk Assessment assessing and considering groundwater flood risk is required in line with Footnote 67 of the NPPF (see below). The application has not been supported by a Flood Risk Assessment that considers groundwater flood risk, nor BRE compliant groundwater and ground investigations that provides accurate data from which to consider the likelihood of groundwater emergence and flooding. On this basis, insufficient information has been provided to adequately consider whether the development would be safe from groundwater flood risk for its lifetime.

Footnote 67 of the NPPF states: 'A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving:... land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more

vulnerable use'.

The site is within the Lidsey Wastewater Treatment Catchment Area, where a Surface Water Management Plan is in effect due to historic issues with foul sewer flooding, suspected to be due to surface water inundation of the foul sewer. Particular consideration of surface water management for all new development is required in this area.

The ADC Engineers have objected, in part, due to insufficient evidence and details of a viable and sustainable drainage scheme that is in accordance with the National Standards for Sustainable Urban Drainage Systems (NSfS). The full comments from the Engineers were sent to the agent for review and are available on the ADC website under this applications reference number.

The development involves the creation of a new dwelling, two outbuildings, and hardstanding. The proposal has not been supported by detailed groundwater investigations or infiltration testing, and the proposed surface water drainage scheme comprises a brief statement without any sufficient evidence to identify its viability or compliance with the SUDS Hierarchy outlined within the NSfS. The application has provided a brief report identifying that some form of intrusive investigation has been undertaken and found that typical groundwater levels at the site and within the area may be about 1m below ground level. The investigations undertaken do not appear to be BRE compliant, nor of a sufficient duration to confirm what the peak groundwater levels are within the winter period. At a typical level of 1m below ground level, this would suggest that infiltration may not be viable on site, but this is not reliable evidence and does not rule it out definitively.

The proposed drainage scheme is to drain surface water to a shallow seepage trench, allowing some infiltration to ground, but which would predominantly direct water off-site via natural flow paths to land to the north-west, ultimately discharging to ponds and a watercourse to the west. In the absence of sufficient infiltration testing and groundwater monitoring it is unclear whether full, partial, or no infiltration methods is appropriate at the site when accounting for the viability of infiltration rates, the need for a 1m freeboard below the base of any infiltrating feature and peak groundwater levels, and the principle that each discharge location should be maximised to its full potential. Furthermore, insufficient evidence regarding the natural drainage characteristics or flow routes of the site, or details of the watercourse has been provided to confirm whether the watercourse would be a viable alternative discharge location, should full infiltration prove unfeasible. Evidence of relevant consent(s) to, and agreed parameters of, discharge to the watercourse has also not been submitted.

Of additional and particular concern is that the land to the northwest of the site in which the water bodies and water course lie, is an Ancient Woodland. Any proposed surface water drainage scheme that seeks to make use of this land runs significant risk of causing damage/deterioration of the Ancient Woodland in terms of harms to trees, but also deterioration of the woodland as a habitat, including its soils and other elements of the woodland that contribute to its habitat value. This area of Ancient Woodland is also known to have significant evidence of protected species within its bounds, and so any physical works or discharge of surface water within this area could result in deterioration of the habitat, its trees, or harms protected species. All of which would need detailed evidence to convey that a surface water drainage scheme through/into this area is viable, sustainable, and acceptable, with particular consideration that as an irreplaceable habitat, the NPPF is clear that 'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...' (Para 193(c)). As outlined within 'TREES' section of this report, the proposals do not include 'exceptional reasons' for which the deterioration of this habitat could be considered in any capacity. As such, unless a surface water drainage scheme could be demonstrated as viable in accordance with the NSfS and to confirm, definitively, that there would be no deterioration of the Ancient Woodland, it is unclear that a viable drainage scheme could exist for this scheme unless full infiltration is found to be viable.

Overall, the proposals have not been supported by sufficient information to confirm whether the development is at risk of groundwater flooding, or if it is, that it would be safe from this risk for its lifetime in conflict with ALP policy W DM2 and NPPF Paragraph 170. The applicant should be aware that if the site is found to be at risk of groundwater flooding, a Sequential Test for flood risk would be required in accordance with ALP policy W DM2, NPPF Paragraphs 173-175 and NPPG Paragraph: 027a Reference ID: 7-027a-20220825.

It has also not been demonstrated with sufficient evidence or detail, that there exists a viable surface water drainage scheme in accordance with the NSfS that would ensure that the development could be adequately drained without increasing flood risk on site or elsewhere. The proposal is, therefore, in conflict with ALP policies W DM1, W DM2, and W DM3, WNDP policy HP2, and paragraphs 181, 182 and 187(e) of the NPPF.

TRANSPORT AND PARKING

The proposal makes use of an existing residential access onto a non-adopted road. There are no highways safety concerns with the reuse of the existing access and the proposal would not materially intensify its use. WSCC Highways have been consulted and have raised no objections to the proposal or the connection of the non-adopted road (Copse Lane) to the public highway West Walberton Lane.

The proposal includes sufficient car parking (minimum of two spaces), adequate space for onsite manoeuvrability, and includes a double garage and outbuilding in which sufficient cycle parking provisions (two spaces) could be secured by way of condition. One EV charger could also be secured by way of condition, for which a provisional location has been annotated on the proposed site plan. All of which would result in compliance with the Arun Parking Standards and ALP policy T SP1.

WASTE

The proposal includes a designated area for refuse bins to the front of the site and kerbside collection would be feasible in accordance with ALP policy WM DM1.

SUMMARY

Insufficient information has been submitted in respect to potential impacts on protected species in that relevant Dormouse surveys have not been provided despite evidence of their presence within the neighbouring Ancient Woodland and the potential for their presence/use of the northwest corner of the site. This is in conflict with ALP policy ENV DM5.

The proposal has not been supported by an adequate site-specific flood risk assessment that considers the high potential for groundwater flood risk on site, and has not, therefore, confirmed whether the site is subject to this flood risk or, therefore, demonstrated that the development would be safe for its lifetime in conflict with ALP policy W DM2 and NPPF Paragraph 170.

It has not been demonstrated with sufficient evidence or detail, that there exists a viable surface water drainage scheme in accordance with the NSfS that would ensure that the development could be adequately drained without increasing flood risk on site or elsewhere. The proposal is, therefore, in conflict with ALP policies W DM1, W DM2, and W DM3, WNDP policy HP2, and paragraphs 181, 182 and 187(e) of the NPPF.

The proposal has not been supported by sufficient arboricultural and ecological evidence relating to the potential impacts of the development on an irreplaceable habitat (Ancient Woodland) and Trees subject to a Tree Preservation Order. It has an unacceptable risk of harm and deterioration to these features in conflict with ALP policies ENV DM4 and ENV DM5, WNDP policy HP2, and NPPF paragraph 193(c).

The proposal will impact the 'Potwell Copse' Ancient Woodland, and no management plan for ensuring the long-term protection or enhancement of this biodiversity rich habitat has been provided in conflict with WNDP policy VE10.

The potential harms to irreplaceable habitat and lack of demonstration that the development would be safe from groundwater flooding for its lifetime constitute a strong reason for refusal and the presumption in favour of sustainable development is, therefore, disapplied in accordance with Paragraph 11d(i) of the NPPF. The proposal is in conflict with a number of relevant Development Plan policies as outlined above, and as such, it is recommended for refusal.

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 would have been required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 There is evidence that protected species are may be present on site and the proposal has not been supported by sufficient protected species surveys to confirm their absence or to identify any mitigation measures required in order to prevent loss of the protected species in conflict with ALP policy ENV DM5.
- 2 The proposal has not been supported by an adequate site-specific flood risk assessment that considers the high potential for groundwater flood risk on site, and has not, therefore, confirmed whether the site is subject to this flood risk, nor, demonstrated that the development would be safe for its lifetime in conflict with ALP policy W DM2 and NPPF Paragraph 170.

- 3 It has not been demonstrated that the development can be viably and sustainably drained in accordance with the National Standards for SUDS without increasing flood risk on site or elsewhere. The proposal is, therefore, in conflict with ALP policies W DM1, W DM2, and W DM3, WNDP policy HP2, and paragraphs 181, 182 and 187(e) of the NPPF.
- 4 The proposal has not been supported by sufficient arboricultural and ecological evidence relating to the potential impacts of the development on an irreplaceable habitat (Ancient Woodland) and Trees subject to a Tree Preservation Order. It has an unacceptable risk of harm and deterioration to these features in conflict with ALP policies ENV DM4 and ENV DM5, WNDP policy HP2, and NPPF paragraph 193(c).
- 5 The proposal will impact part of the 'Potwell Copse' Ancient Woodland, and no management plan for ensuring the long-term protection or enhancement of this part of the biodiversity rich habitat has been provided in conflict with WNDP policy VE10.
- 6 **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 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 harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.