Report following a request for further information, negotiations or consultation

REF NO: WA/111/23/PL

LOCATION: Brookfield Farm
Eastergate Lane
Walberton

PROPOSAL: 2 No. detached 4 bedroom dwellings (resubmission following WA/101/22/PL). This application is a Departure from the Development Plan and in CIL Zone 3 and is CIL Liable as new dwellings.

This application was previously deferred at the Planning Committee on 17 January 2023, on the recommendation of officers, to allow for development-specific modelling to be undertaken by Southern Water's Future Growth Planning Team to test whether the flows from the two additional dwellings could be accommodated within the existing sewer network and for wider discussions to take place with Southern Water around known issues within the catchment area.

Southern Water has subsequently sent a further formal consultation response on this matter confirming that their investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development.

A formal consultation response has also now been received from the Council's own drainage engineers raising no objection subject to recommended conditions and informatives. These conditions and informatives were already included on the original recommendation, which remains unchanged and is that planning permission should be granted for the proposed development subject to the conditions and inormatives as set out at the end of the agenda report.

Recommendation Report for Planning Permission

REF NO: WA/111/23/PL

LOCATION: Brookfield Farm
Eastergate Lane
Walberton
BN18 0BA

PROPOSAL: 2 No. detached 4 bedroom dwellings (resubmission following WA/101/22/PL). This application is a Departure from the Development Plan and in CIL Zone 3 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application seeks permission for the erection of two detached 4-bedroom dwellings, each with an integral double garage.

The dwellings are of the same design. They are traditionally styled and include barn-ends to both the north and south and

	a hipped/cat-slide roof to the eastern elevation and a single storey barn-end out croft to the western elevation. Pitched roof dormers are proposed to the front and rear, and solar panels are also included to the western elevation. The design will include bonnet tiles to hips, exposed rafter feet and be finished with brick at ground and cladding to the first floor. Fenestration openings are appropriately sized given the rural setting of the building. The two dwellings would be set back from the road and served by a single, shared vehicular access. They would be provided with parking and turning areas, including one visitor car parking space.
SITE AREA	0.47 Hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 4 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	The site has trees and hedgerow to its western and southern boundaries, including a large Hornbeam adjacent to the proposed access to the site.
BOUNDARY TREATMENT	Trees/hedgerow.
SITE CHARACTERISTICS	Open agricultural grazing land.
CHARACTER OF LOCALITY	Rural. The site is surrounded by sporadic development to the west and east, including residential, with open agricultural grazing land to the north. There are various business of a rural nature to the immediate south of the site, including garden nurseries.

RELEVANT SITE HISTORY

WA/101/22/PL	2 x detached 4 bedroom dwellings	Refused 24-02-23
WA/73/22/PL	4 No 3 bedroom dwellings. This application is a Departure from the Development Plan and is in CIL Zone 3 and is CIL Liable as new dwellings.	Withdrawn 14-09-22

This is a revised application following the withdrawal of application WA/73/22/PL and the refusal of a subsequent application WA/101/22/PL, which was dismissed on appeal on the basis that the scheme would result in the loss of Best and Most Valuable Agricultural Land (BMVAL).

The Planning Inspector made the following conclusions in their summing up of the proposed development:

"The proposal would provide 2 dwellings reasonably quickly, due to its small scale. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirements of an area. It would therefore contribute to the Council's 5-year housing land supply and along with the associated economic, social, and environmental benefits, would attract moderate weighting based on the size of the Council's housing land supply deficit and the number of houses proposed.

I have found the proposal acceptable in relation to its impact on the character and appearance of the area, and the Council have not found harm relating to living conditions, design, accommodation standards, parking, highway safety, trees, biodiversity, and energy efficiency, amongst other things. However, any absence of harm is neutral in the planning balance.

Nevertheless, the proposal would constitute the loss of BMVAL, and because this loss would be permanent and irreversible, I give this significant weight. Therefore, I find in these circumstances, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan."

This application represents a resubmission of application WA/101/22/PL with new evidence submitted to address the Inspector's main concerns regarding the loss of Best and Most Valuable Agricultural Land (BMVAL), which the applicant disputes. Consideration of the new evidence is discussed in the body of the report below.

REPRESENTATIONS

Walberton Parish Council - Objection.
- Site is outside the Built-up Area Boundary (BUAB).
- Greenfield site consisting of grade 3 agricultural land.
- Increasing trend to infill land along Eastergate Lane, development is merging with neighbouring Parishes.
- Biodiversity corridor, impact on chalk stream not identified.
- Increased risk of flooding/ ground water monitoring lacking.
- Not a sustainable location, without footpath or cycle routes.

5 letters of support from neighbours.
- 2 well presented homes in the village.
- Appropriately sized and situated amongst neighbouring homes. A positive addition to this rural setting.
- Other similar gap developments have been approved along the lane.

1 letter of objection from neighbour.
- This application is a harmful incursion into the rural gap between settlements.

COMMENTS ON REPRESENTATIONS RECEIVED:

Representations noted. Those relating to material planning matters are considered in the Conclusions section of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways - Advice with conditions suggested.
- Visibility is in accordance with Design Manual for Roads and Bridges guidelines for Stopping Sight Distances (SSD) in relation to recorded survey data 85th percentile speeds provided within the Transport Statement. As such, the Local Highway Authority (LHA) is satisfied with the demonstrated visibility, of which can be secured by condition.
- The LHA is satisfied that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse impacts on highway safety.
- Under Arun Parking Standards, the LHA would expect a development of this size and location to provide at least seven car parking spaces. Therefore, the LHA is satisfied with the proposed level of parking provision.
- Parking bays appear suitably sized.
- 4 cycle parking spaces are to be provided. These can be secured by condition.
- The site is situated approximately 1km west of Walberton Village, which provides some local amenities and services, such as a shop and bus links. However, this part of Eastergate Lane lacks a footway and is unlit, which may deter pedestrians. Cycling is available option for confident cyclists.
- 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.

Environmental Health - No objection. Conditions including contamination, working hours and best practice suggested.

Ecology - No objection with conditions relating to new bat/bird habitat, lighting and enhancement suggested.
- The site is within the Singleton and Cocking SAC Tunnels SAC and is therefore within the 12.0 km wider conservation area.
- This has been considered and the impact is rated as negligible.
- The BNG assessment uses the small sites metric with an increase of over 10% in all 3 typologies.

Southern Water - various responses as set out below.

20/12/23 - Initial consultation reply. No objection with advice relating to connection to mains sewers.

16/01/24 - Holding objection from SW Sewer Network Manager, pending review by SW Developer Services Team, saying "I would strongly advise currently against any additional development of any size in this catchment area. We are still having to remove excess ground water from the sewer system and this at best guess is likely to continue until at least Spring. The area and drainage catchment is in my own opinion over burdened most of the year and any amount of rainfall even in the summer tips the systems over the edge. I am hoping that this application has been sent to our developer services team for review and discussion as per normal Developer processes, if so I will also pass comment when they approach myself for information and knowledge. If planning permission is granted by the relevant planning authority I would also advise that the developer/land/property owner make every attempt possible to protect these new and existing dwellings from sewer flooding. That as per the letter, all provisions are made to manage the rainwater/surface water from this development by means or SUDS or other system but should not be connected to the public foul sewer system.2

16/01/24 - "This is currently being reviewed by our technical team where I can see there is a task to undertake network modelling for the proposed foul flows of 0.02l/s from this development. Based on the results of the modelling we can advise further if this development causes detriment to our network in writing."

16/01/24 - Further formal letter received raising no objection, with comments only, stating: "Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer."

ADC Engineers - No objection subject to conditions and informatives.

COMMENTS ON CONSULTATION RESPONSES:

Appropriate conditions recommended by consultees have been included where relevant and necessary.

POLICY CONTEXT

Designation applicable to site:
Outside the Built-up Area Boundary.
Singleton and Cocking Tunnels SAC 1.2km buffer zone.
Lidsey Treatment Catchment area.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
ECCSP1	ECC SP1 Adapting to Climate Change
LANDM1	LAN DM1 Protection of landscape character
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
WDM3	W DM3 Sustainable Urban Drainage Systems

Walberton Neighbourhood Plan Policy 2017 HP1	Spatial Plan of the Parish
Walberton Neighbourhood Plan Policy 2017 HP11	Housing Density
Walberton Neighbourhood Plan Policy 2017 HP13	Design Guidance
Walberton Neighbourhood Plan Policy 2017 VE3	Protection of Trees and Hedgerows
Walberton Neighbourhood Plan Policy 2017 VE7	Surface Water Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPDG	National Design Guide

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 acceptable in that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against Development Plan policies and the guidance of the National Planning Policy Framework when taken as a whole.

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

It is considered that there are other material considerations to be weighed in the balance with the Development Plan.

WA/101/22/PL was dismissed at appeal in September 2023 where the Inspector determined the key issues to be the effect of the proposed development on the availability of the best and most versatile agricultural land (BMVAL), and the character and appearance of the area.

Given the high-quality design being reflective of the local area and landscape they found that the proposal would not harm the character and appearance of the area. It would therefore comply with LP Policies D DM1, D SP1 and LAN DM1; Policy HP13 of the Walberton Neighbourhood Plan; the Arun District Design Guide and the NPPF.

When considering BMVAL, the Inspector upheld the reason for refusal insofar as (when considering the precautionary approach), they were unable to conclude that the proposal would protect the availability of the BMVAL or the provision of 2 new dwellings on the appeal site would appropriately outweigh the protection of that land. The proposal would therefore conflict with LP Policy SO DM1, and the Framework, as far as it requires that the economic and other benefits of BMVAL are taken into account.

No evidence was submitted by either party at the appeal as to the exact classification of the land, only that the land could be classified as Class 3 (which is split into 3a - Good Moderate, and 3b Moderate Moderate. This led the Inspector to take a precautionary approach because of the permanent loss of the land subject to the application's approval. This application introduces new evidence relating to the classification of agricultural land forming the site area, in all other respects the application is identical to the previous submission.

This very recent appeal decision is a material consideration to which significant weight should be afforded.

CONCLUSIONS

PRINCIPLE

The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Walberton Neighbourhood Development Plan 2, that was made in 2021 ("WNDP") and the West Sussex Waste and Minerals Plans.

Policy C SP1 of the Arun Local Plan states that in locations outside the Built-up Areas boundary, development will only be permitted for a defined list of countryside uses.

Policy HP1 of the Walberton NP relates to the Built-up Area Boundary (BUAB) and states proposals for development outside of the BUAB, that do not accord with the development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure.

The provisions of Policy HP1 and Policy C SP1 preclude residential development on the application site. The principle of development on the site is, thereby, contrary to the development plan.

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year Housing Land Supply Policy C SP1 of the ALP is out of date and the presumption in paragraph 11(d) (the so called "tilted balance") applies.

Paragraph 14 of the new NPPF (20 December 2023) relating to the status of neighbourhood plans is of relevance in this instance.

Paragraph 14 says that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply: a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.

The current made Walberton Neighbourhood Plan 2 is less than 5 years old and sites for the allocation of housing have been provided within the WNP. Accordingly, Paragraph 14 of the NPPF is a material consideration to which significant weight should be attached.

AGRICULTURAL LAND

The site is indicated by "Agricultural Land Classification - Provisional (England)" data (as obtained through Natural England) to be grade 3 (Good to Moderate quality). However, the classification does not distinguish between grade 3a/3b. This mapping is based on data provided by the national Provisional Agricultural Land Classification Grading system (ALC). It assesses the potential for land to support different agricultural uses, such as growing crops for food but does not consider the land's current use and intensity of use.

At appeal, the Inspector noted that no evidence had been submitted to clarify the exact class of the land, noting that Natural England data did not clarify whether the appeal site would be classified as grade 3a, or the lower quality 3b. Taking the precautionary approach, in the absence of clarity on the specific grading, they concluded the land to be 3a (the worst case scenario) and gave the permanent loss of the land to agriculture significant weight in the planning balance.

In support of this resubmitted application, a detailed 'Agricultural Land Classification Report' has now been prepared that concludes that, owing to the site's stoniness and drought, this site cannot be classified any higher than class 3b land. This is short of the requirements of Policy SO DM1 of the ALP which requires development on class 3a land and higher (including classes 1 and 2), to be supported by a sustainability and options appraisal. Furthermore, it is argued that the loss of 0.47 hectares of grazing pasture, which is too small to be considered 'best and most versatile' land, will not affect the farming business' longer term viability. The Council has not evidence available to counter this.

ALP policy SO DM1 states unless land is allocated, then the use of graded agricultural land above level 3b for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. In this instance the new evidence submitted is considered satisfactory to demonstrate that the land does not fall to be considered under this policy and, as such, there is no requirement for the application to meet the specific policy test.

On the basis of the revised information now provided, that was not available at the time of the previous appeal, it is considered that a refusal reason relating to the loss of BMVAL could no longer be sustained.

VISUAL/DESIGN IMPACT
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 requires development to make an effective use of the land.

Policy LAN DM1 strives to respect the particular characteristics and natural features of the landscape.

Policy HP 13 of the Walberton Neighbourhood Plan requires that new development must contribute to local character by creating a sense of place appropriate to its location.

Para 135 of the NPPF requires development to be visually attractive as a result of good architecture, layout, be sympathetic to local character and history, including the surrounding built environment and landscape setting and maintain a strong sense of place.

Part Q of the Arun Design Guide (ADG) requires development to sensitively fit into its setting in order to respect the character of the District's countryside areas.

The site is located immediately to the east of a group of approx. 15 dwellings of typical sporadic ribbon development, situated back from the highway. Eastergate Lane is a rural narrow lane (without pavements) with grass verges lined by hedgerow. Immediately to the north of the site is open grassland, used for grazing, to the south are commercial nurseries. Heading from west to east the character of the lane alters from one of a more formal pattern of semi-rural development to that of a rural setting. From Eastergate Lane, looking north, views of the open, undeveloped nature of the land can be glimpsed through openings in the hedgerow. Equally there are points on West Walberton Lane where views towards the application site can be achieved. This character contributes to the attractive setting and open rural character of the local area. Despite the development having an impact in this regards, the properties cannot be considered as out of character, especially as the development is located in between other dwellings fronting the lane.

Furthermore, the existing hedgerow situated on the southern boundary of the site provides some screening, there will still be glimpses of the proposed dwellings available from the highway. The attached garages (the forward most part of the development) will be located approx. 27m away from the edge of the highway. It is noted that the nearest neighbours nos. 1 and 2 Nursery Cottages, which lie immediately to the application site's western boundary are situated nearer to the highways edge at

approx. 17m back. As such the dwellings will not harm the established pattern of development.

Part P of the AGD requires infill development to 'Respond positively to the character, appearance and layout of surrounding buildings' and requires new development to 'relate to the existing rhythm of buildings and voids.'. The scale and bulk of the proposed dwellings is not dissimilar to those properties to the immediate west. Nos. 1 and 2 Nursery Cottages are a pair of semi detached dwellings, their bulk and height matches the proposed dwellings. In terms of appearance the high-quality design responds well to the rural setting.

In the Inspector's report they concluded that the proposals would be of a style, size and form commensurate to the other properties along Eastergate Lane and would, therefore, appear visually in keeping with existing development. The set back position of the development and retained and enhanced green buffer would also maintain the green verdant rural setting of the development. The Inspector also commented that, despite the loss of the void between existing development, given the spacious nature of development it would integrate acceptably.

In terms of appearance and character the proposed dwellings would inevitably have some impact on the relatively open rural character of the area, however, their appearance, bulk, scale and layout are reflective of other nearby existing development. Any harm arising would not be significant enough to conflict with policy requirements. The development accords with policies D SP1, D DM1 and LAN DM1 of the Arun Local Plan, HP 13 of the WNP, Part Q and P of the Arun Design Guide, and relevant paragraphs of the NPPF.

RESIDENTIAL AMENITY
ALP policy D DM1 requires there be minimal impact to users and occupiers of nearby property and land. ALP policy QE SP1 requires development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. Part H of the Arun Design Guide sets out guidance on garden depths and interface distances between houses.

The two dwellings will sit centrally within their respective plots with an acceptable minimum of 14.5m to the western boundary and 13.5m to the eastern boundary of site, with rear gardens exceeding Part H of the ADG requirements (12m) and fronting a public road. As such no overbearing impacts will occur to neighbouring properties.

There are no side facing first floor windows proposed thereby preventing any overlooking from these elevations. All other openings face towards the front, overlooking public or shared areas, or face towards the private rear amenity space.

The proposal, thereby, accords with policies QE SP1 and D DM1 of the ALP.

QUALITY OF 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. Nationally Described Space Standards provide the current guidance. A 4 bed-8 person dwelling should provide a minimum of 124sqm over two floors. The internal spaces for the proposed dwellings would significantly exceed the current standards. at approx. 280sqm. Therefore, the development accords with Policy D DM2 of the Arun Local Plan.

In exceeding the required space standards, the proposed dwellings accord with Policy D DM2 of the ALP.

TRAFFIC & ROAD SAFETY
ALP policy T SP1 seeks to ensure development provides safe access on to the highway network;

contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should a create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

According to the requirement of Parking Standards (SPD January 2020), 2 parking spaces are required for 3 bed houses in Parking Behaviour Zone 1.

The plans indicate 4 parking spaces (two within the garage) per dwelling which would satisfy the requirement of ADC Parking Standards. 1 visitor space is also indicated, and although not necessary with a scheme of this size will be a useful resource given the nature of Eastergate Lane.

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. As EV charging points have not been indicated on plan, details of these can be secured by condition.

The Arun SPD requires cycle storage to cater for 2 cycles per dwelling. Ample space for the storage of bicycles can be provided within each garage.

WSCC Highways does not consider this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. Subject to conditions to secure vehicular & cycle parking and EV points, the proposal would accord with ALP policies T SP1, T DM1, the ADC Parking Standards SPD (2020) and the NPPF.

TREES
Policy ENV DM4 of the ALP and VE3 of the Walberton Neighbourhood Plan states that development will be permitted where it can be demonstrated that trees and hedgerows contributing to local amenity will not be damaged or destroyed and that development that damages or results in the loss of ancient trees/ trees of arboricultural and amenity value or loss of hedgerows or significant ground cover and habitat will be resisted.

A 'Tree Protection and Retention Plan' and 'Tree Schedule' have been provided in support of the application. These detail that no trees are to be removed from site, and existing boundary trees shall be protected during works. Amended plans have also been received moving the access track from intersecting through the root protection areas of the trees found on the western boundary. This will allow existing tree coverage to be fully protected from the development and provide space for new tree/hedge planting to proceed in line with policies ENV DM4 of the ALP and VE3 of the WNDP.

BIODIVERSITY AND ECOLOGY
ALP policy ENV DM5 requires that development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site.

Policy ENV DM1 controls development within sites of biodiversity or geological importance. The site is inside the 12km kilometre buffer zone as shown in the Sussex Bat SAC Planning and Landscape scale Enhancement Protocol. ANP policy EH12 states proposals for the development of greenfield sites in the Parish must evaluate whether there is a potential for the loss of suitable foraging habitat and / or the severance of commuting flight lines, such as in the form of mature treelines, hedgerows, and watercourses.

Policy VE10 of the WNP seeks to ensure a biodiversity net gain is made and seeks to preserve features (hedgerow/trees etc) used by bats within the Singleton and Cocking Tunnels Special Area of Conservation (SAC).

The application is accompanied by an Ecological Assessment where the opportunities for biodiversity enhancement have been suggested and details of biodiversity net gain have been provided.

The council's Ecologist is satisfied that sufficient survey effort has been applied and appropriate mitigation measures have been recommended in relation to qualifying features of the SAC. In terms of bats there are no structures present on site suitable for roosting, linear features such as hedgerow is being retained. The site has a low potential for bats with the boundary having low/moderate potential. As is required by the Conservation of Habitats and Species Regulations 2017 (as amended), the council has prepared an Appropriate Assessment (AA) which concludes there would not be any adverse effects on the SAC due to provision of suitable avoidance and mitigation measures.

Therefore, subject to a condition securing mitigation measures set out in the Ecological Impact Assessment, the proposed development accords with ALP policy ENV DM5.

ENERGY AND CLIMATE CHANGE

ALP policy ECC SP2 requires that all new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change.

PV panels are proposed on the dwellings. These, along with other measures can be secured via planning conditions.

DRAINAGE

Policy W SP1 seeks to encourage water efficiency measures. Properties should demonstrate the most rigorous of efficiency measures equal to those required under Part G of the Building Regulations.

Policy W DM3 states that proposals should incorporate a range of Sustainable Urban Drainage Systems into proposals at an early stage in the design process. Proposal will be supported should they consider Surface Water Drainage Systems, which reduces the creation and flow of surface water drainage and reduces flood risk whilst increasing biodiversity.

The application is within the Lidsey Treatment Catchment, therefore surface water drainage design should be carefully considered. Infiltration must be fully investigated, sustainable urban drainage features have been included in the initial drainage design.

Arun District Council Drainage Engineers have raised no objection to the application subject to conditions controlling a surface water drainage scheme. Aspects to note, this application will require further ground water monitoring (winter) to be undertaken, a Land Drainage Consent will be required to divert the culvert, root barriers will be required between surface water drainage features and trees proposed, and further design refinement is required for connections to boundary watercourses. The Engineers stated the proposal to position a land drain at the north of the site to capture surface water runoff and discharge this to the watercourse was positively viewed given the historic drainage issues on Eastergate Lane.
Subject to condition the proposal accords with policies W SP1 and W DM3 of the ALP.

SUMMARY

Paragraph 11d(ii) of the NPPF, requires that where policies relating to residential development are out of date (i.e. in this instance this applies to policy C SP1 of the ALP and HP1 of the WNP) then applications should be granted permission unless the impacts of doing so demonstrably outweigh the benefits, when assessed against the Framework as a whole. Para 14 states that the adverse impacts of allowing housing that conflicts with the WNP are likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan contains policies and allocations to meet its identified housing requirements.

The benefits of the scheme are that the dwellings would make a modest addition to the housing stock in the District and that there would be a slight economic benefit to due to the jobs created, noting that the site could provide two new dwellings relatively quickly, this being a smaller site. The economic benefits arising during the construction of the development would be temporary and carry minimal weight. Overall, given the severe lack of a 5YHLS, the Inspector's conclusions in respect of the very recent appeal scheme are accepted, which is that the benefits arising from development would attract moderate weighting, based on the size of the Council's housing land supply deficit and the number of houses proposed.

There has been a material change in circumstances since the appeal decision, in that the government published a new National Planning Policy Framework in December 2023 in which the revised wording of paragraph 14 now strengthens the status of neighbourhood plans, where these allocate land for housing and were made less than 5 years ago. The WNP meets these tests and the provisions of paragraph 14 should be given an appropriate level of weight in determining this application and says that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

In the overall planning balance, officers have given due weight to the conflict with both the ALP and the WNP. However, in this particular instance the very recent appeal decision (October 2023) is also a material planning consideration to which significant weight should be applied. The appeal proposals were identical to the development the subject of this current planning application and the Inspector found the proposal acceptable in relation to its impact on the character and appearance of the area, and did not identify any harm relating to living conditions, design, accommodation standards, parking, highway safety, trees, biodiversity, and energy efficiency. The only reason the Inspector found for dismissing the previous appeal was on the assumption that the development would result in the loss of BMVAL (Class 3a), in conflict with ALP Policy SO DM1. Robust evidence has since been submitted with this application to satisfactorily demonstrate that the land in question should, in reality, be graded as Class 3b, which falls outside of the definition of Best and Most Versatile Agricultural Land. This previous reason for refusal falls away.

Taking all factors into account, and notwithstanding that the proposals do not fully comply with the provisions of the development plan it is concluded that there are material considerations of such weight - especially the Planning Inspector's conclusions in respect of an identical scheme for the redevelopment of this site - that would justify granting planning permission in this particular instance. The application is therefore recommended for approval subject to the following conditions and informatives.

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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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 (dependent on any exemptions or relief that may apply).

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan
- Block Plan 2021/23/01 Rev G
- East and West Elevations 2021/23/13
- South Elevation and Ground Floor Plan 2021/23/11
- North Elevations and First Floor Plan 2021/23/12
- Street Scene 2021/23/10 Rev A
- Roof Plan 2021/23/14
- Tree Retention and Protection Plan GS057 V 4
- Landscape Proposal 2360-TFC-00-00-DR-L-1001 P04

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1.

3 The development shall be constructed with the following materials and finishes:

- Ground floor to be brickwork with flint panels.
- First floor and where indicated on elevations to be horizontal larch cladding.
- Roof to be clay tiles.
- Windows and doors to be painted timber/glazed.

Unless written agreement is obtained from the Local Planning Authority to vary this arrangement.

Reason: To enable the Local Planning Authority to control the development in detail by

endeavouring to achieve a building of visual quality in accordance with Arun Local Plan policy D DM1.

4 No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun District Local Plan policy QE DM1.

5 Prior to occupation of any of the approved dwellings, the applicant or developer shall provide the dwellings with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

6 No dwelling hereby permitted shall be first occupied until the car parking serving that particular dwelling has been constructed in accordance with the approved Site Layout/Block Plan 2021/23/01 Rev G. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with policy T SP1 of the Arun Local Plan.

7 No part of the development shall be first occupied until visibility splays of 2.4 metres by 95.6 metres to the west and 2.4 metres by 93.2 metres to the east have been provided at the proposed site vehicular access onto the application site in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in accordance with policies T SP1 of the Arun Local Plan.

8 Details of bat tubes, bricks or boxes shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No fewer than 2 bat tubes, bricks or boxes shall be provided, and the details shall include the exact location, specification, and design of the habitats. The bat tubes, bricks or boxes shall be installed with the development prior to the first occupation/use of the building/s to which they form part or the first use of the space in which they are contained.

The bat tubes, bricks or boxes shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition thereafter.

Reason: To ensure the development provides the maximum possible provision towards the creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan

Policies ENV DM1 and ENV DM5.

9 Details of integral nesting bricks shall be submitted to and approved in writing by the Local Planning Authority prior to any development above damp-proof course (DPC) level.

No fewer than 2 Swift nesting bricks shall be provided, and the details shall include the exact location, specification, and design of the bricks. The bricks shall be installed within the development prior to the first occupation/use of the building/s to which they form part or the first use of the space in which they are contained. The number of boxes required is as follows:

- Small scale developments should include at least 1 multi-chamber boxes or bricks per dwelling,
- Medium scale developments should include at least 5 multi-chamber boxes or brick across the estate buildings,
- Major developments should incorporate at least 12 multi-chamber bricks or boxes across the estate buildings.

The nesting bricks shall be installed strictly in accordance with the details so approved and shall be permanently maintained in good working condition as such thereafter.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

10 Prior to any development above damp-proof course (DPC) level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the landscape proposals, BNG metric and EIA, shall be submitted to and approved in writing by the Local Planning Authority.

The enhancement measures shall be implemented in accordance with the approved details prior to first occupation of any part of the development and all features shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats in accordance with Arun Local Plan policies: ENV SP1 and ENV DM5 and allow the Local Planning Authority to discharge its duties under the NPPF 2023 and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

11 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Design considerations must take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council, and are an overriding factor in terms of requirements. Winter groundwater monitoring to establish highest annual ground water levels and winter percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a

pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

12 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling, or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values and in accordance with current policies. No construction is permitted, which will restrict current and future landowners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. And to ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010 can be fulfilled without additional impediment following the development completion. It is considered necessary for this to be a pre-commencement condition to protect existing watercourses prior to the construction commencing.

13 The approved development shall include energy efficiency measures that reflect the current standards applicable at the time of submission and decentralised, renewable or low carbon energy supply systems. Any physical features that are required as part of the works must be installed prior to the occupation of each dwelling/the building and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure a reduction in the use of energy at the site in accordance with national planning policy and policy ECC SP2 of the Arun Local Plan.

14 No individual dwelling hereby approved shall be occupied until the optional requirement for restricted water consumption in Part G of the Building Regulations as demonstrated through The Water Efficiency Calculator for New Dwellings has been complied with for that dwelling.

Reason: To improve the sustainability of the dwellings in accordance with Arun Local Plan policies ECC SP1 and W DM1.

15 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

16 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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a

result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

17 INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The infiltration tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method. All design storms must include a climate change allowance, as per https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances, on stored volumes or rainfall intensity. Infiltration structures must cater for the critical 1 in 10 year storm event, (plus40%) between the invert of the entry pipe to the soakaway and the base of the structure. All surface water drainage designs must also have provision to ensure there is capacity in the system to contain the critical 1 in 100 year storm event (plus 45%).

Freeboard is to be provided between the base of the infiltration structure and the highest recorded groundwater level identified in that location. Ideally this should be 1 metre where possible, as stated in the CIRIA Suds Manual guidance. However, on the coastal plain in particular, where geology dictates and where shallow perched/tidally influenced water tables are often present, this is unlikely to be achievable irrespective of this, infiltration must still be fully considered. Therefore, to maximise this potential and avoid utilising other less favourable methods of surface water disposal, the bases of infiltration structures are permitted to be immediately above the peak recorded groundwater levels where it is deemed necessary.

In areas where an aquifer is to be protected (subject to guidance from the Environment Agency) then a minimum 1 metre freeboard must be provided. Suitable water treatment is required upstream to the point of discharge in all circumstances to minimise any groundwater pollution risk or detriment to the drainage network. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest groundwater table in support of the design. The applicant is advised to discuss the extend of ground water monitoring with the council's engineers.

Supplementary guidance notes regarding surface water drainage are located at https://www.arun.gov.uk/drainage-planning-consultations on Arun District Council's website. A surface water drainage checklist is available on Arun District Council's website, this should be submitted with a Discharge of Conditions Application. Reference should also be made to the 'West Sussex LLFA Policy for the Management of Surface Water'.

18 INFORMATIVE: Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), or its agent (Arun District Council, land.drainage@arun.gov.uk), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.