

Recommendation Report for Planning Permission

REF NO:	WA/17/25/PL
LOCATION:	Land to the North of Lake Lane Barnham PO22 0AJ
PROPOSAL:	Demolition of stable block and erection of 7 No dwelling houses comprising 2 No three-bedroom detached bungalows & 5 No four- bedroom two storey detached houses together with associated car parking and landscaping (resubmission following WA/20/24/PL). This application is a Departure from the Development Plan, falls partly in both Barnham and Walberton parishes and is in CIL Zone 3 and is CIL Liable as new dwellings.

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	<p>It is proposed to use the existing access and extend this into the site with a footpath on the western side of the new road layout. The two bungalows will be at the southern end of the layout and have two off-street parking spaces including one each under car ports. One of these bungalows is side on to the road and other fronts it. The other 5 are to the north and all front the road. These each have two off-street parking spaces and a further car port space. Two visitor layby spaces are shown as well as a turning head in the north-eastern corner.</p> <p>The application suggests materials comprising tile hanging, weatherboarding and clay tile roofs. A preliminary drainage strategy shows a new attenuation basin in the northern part of the site adjacent to the watercourse. This would discharge into the watercourse at the north-western corner of the site. There would be an attenuation tank under the road surface adjacent plots 4 and 5.</p> <p>The application is essentially the same as the refused scheme with the only exception being that plot 7 has been shifted away from the western boundary to retain the boundary trees and its car port then relocated to a new position at the end of the site road and forward of the plot. The application also now includes the documents/information pertaining to refusal reasons 2, 3 and 4.</p>
SITE AREA	0.54 hectares (0.516ha excluding the access).
RESIDENTIAL DEVELOPMENT DENSITY (NET)	13.5 dwellings per hectare (excluding the site access).
TOPOGRAPHY	Appears predominantly flat but the submitted topographical survey confirms it drops by about a metre from south to north.
TREES	Twenty-two individual trees and 5 No. tree groups surveyed.

	<p>They are primarily located to the east, north, and west site boundaries but four are located along the east side of the site access. Some are on site; others are off site but within sufficient proximity to the site to be of note. One No. Category C tree (T22, a Goat Willow) is proposed for removal and six trees are required to have pruning works. All others are to be retained.</p>
BOUNDARY TREATMENT	<p>A mix of post &amp; wire fencing, post &amp; rail fencing, close boarded fencing, and trees.</p>
SITE CHARACTERISTICS	<p>The site is a large, rectangular shaped horse paddock to the north of Lake Lane and east of Park Road. It comprises a stable building (WA/59/91) and associated grass land. The access is via a driveway in-between two almost identical dwellings, St Annes and Lynton. This driveway provides access to the rears of these properties as well as two other dwellings, Pipkins and South View.</p> <p>An existing watercourse enters the site on its eastern boundary (the survey drawings indicate a 20-30cm 'waterfall' at this location) and then hugs the eastern boundary in a northwards direction before turning west and hugging the northern boundary. This then exits to the west.</p>
CHARACTER OF LOCALITY	<p>The site sits outside of the Built-up Area Boundary (BUAB). The landscape to the north and east is relatively natural (notwithstanding the horticultural glasshouses in the wider area) but that to the west and south is primarily residential in character. Lake Lane to the south features a mix of one and two storey semi-detached and detached houses. Park Road to the west is similarly mixed. The two dwellings to the west, Ridgeway &amp; The Drive, are the closest dwellings to the site and are both one and a half storeys in height, but none have windows looking onto the site.</p>

RELEVANT SITE HISTORY
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WA/20/24/PL	<p>Demolition of stable block and erection of 7 No. dwelling houses comprising 2 No. three-bedroom detached bungalows &amp; 5 No. four- bedroom two storey detached houses together with associated car parking and landscaping. This application is a Departure from the Development Plan, falls partly in both Barnham and Walberton Parishes, is in CIL Zone 3, and is liable for CIL as new dwellings.</p>	<p>Refused 30-04-24</p>
WA/59/91	<p>Replacement of old timber stables destroyed in 1990 storm with new timber stables on concrete base</p>	<p>ApproveConditionally 04-11-91</p>

WA/20/24/PL was refused for the following reasons:

(1) The site lies in the designated countryside and is an unsuitable location for new residential development having regard to the spatial characteristics of the area and the character of Lake Lane in conflict with Arun Local Plan policies C SP1, D DM1 & D SP1, Walberton Neighbourhood Development Plan policies HP1 & HP13, Barnham & Eastergate Neighbourhood Development Plan policies H8 & ES5 and with reference to the weight to be afforded to Neighbourhood Plans by virtue of paragraph 14 of the NPPF.

(2) Insufficient information has been provided to demonstrate that there will not be any harm to protected wildlife species using the application site in conflict with Arun Local Plan policy ENV DM5, Walberton Neighbourhood Development Plan policy VE10 2020 and the NPPF.

(3) Insufficient information has been provided to determine no long term adverse impact on the existing Chalk Stream which hugs the eastern and northern boundaries and which is a habitat of principal importance (priority habitat). The proposal is therefore in conflict with Arun Local Plan policy ENV DM5, Walberton Neighbourhood Development Plan policy VE10 2020 and the NPPF.

(4) Insufficient information has been provided to enable assessment of the impact of the proposal concerning on- and off-site trees and so it is not possible to determine compliance with Arun Local Plan policy ENV DM4, Barnham & Eastergate Neighbourhood Development Plan policy ES10, or Walberton Neighbourhood Development Plan policy VE3.

## REPRESENTATIONS

Walberton Parish Council state objection for the following reasons:

- Development in the countryside and an unallocated site.
- The Walberton Neighbourhood Development Plan is up-to-date and satisfies local housing requirements.
- Suitable alternative sites are available.
- Harm to the gap between Barnham and Walberton.
- Inability of the local foul sewer network to cope with the sewage demands.
- Surface water runoff will exacerbate existing flooding.
- Concerns related to road damage along Lake Lane.
- Concerns for adverse impacts relating to increased sewage discharges to watercourses.
- Concerns for inability of existing infrastructure to cope with additional dwellings.
- Concerns related to Flood Zones along north and east site boundaries; and
- Should permission be granted, a pre-commencement or pre-occupation condition related to the securing of upgrades to the wastewater infrastructure to prevent current flooding and discharges is requested.

Barnham & Eastergate Parish Council also state objection for the following reasons:

- Concern for impacts to the chalk stream.
- Concerns of impacts to foraging/commuting bats in the adjacent biodiversity corridor.
- The site is not allocated.
- Concern the existing surface & wastewater infrastructure in Barnham and the Lidsey WWTW cannot support additional dwellings.
- Noting Southern Water advised under application WA/111/23/PL for 2 No. dwellings in the locality that the drainage catchment is overburdened and strongly advised against additional development of that size.

- Concerns regarding the Dark Night Skies policy.
- Should this application be approved, the committee would expect to see Grampian conditions pertaining to the sewerage systems and sensitive dark skies compliant lighting; and
- Conflict with surface water drainage, tree, and biodiversity policies.

Yapton Parish Council have written to state they are concerned that this proposal will increase traffic at the junction of North End Road with Lake Lane.

Ninety letters of objection from nearby occupiers raising the following concerns:

- Concerns regarding the existing road infrastructure and further impacts the proposal may have.
- Concerns the existing sewerage infrastructure is inadequate and increased flood risk.
- Concerns for increased congestion.
- Concerns access is unsuitable for emergency vehicles.
- Concerns for harm to local wildlife and Chalk stream.
- Conflict with Neighbourhood Plan.
- Site is not allocated.
- Concerns that existing infrastructure, services, and amenities cannot support additional dwellings.
- Concerns regarding Southern Water's policies.
- Concerns of increased highway safety risks.
- Noting previous refusal.
- If approved, sewerage and flood risk issues need to be addressed.
- Concerns for the loss of agricultural land.
- Noting the Biodiversity Net Gain relies on off-site units rather than on-site benefit.
- Concerns over existing flooding issues.
- The proposal will diminish the visual amenity of the existing houses and area.
- Grampian Conditions should be used to address infrastructure concerns.
- Noting potential easement conflicts.
- Concerns regarding a high groundwater table.
- Concerns of overlooking impacts.
- Concerns for privacy.
- Inadequate width of access.
- Noting lack of affordable housing.
- Concerns of noise and disruption during construction.

#### **COMMENTS ON REPRESENTATIONS RECEIVED:**

Where the objections relate to material planning considerations, they are addressed in the conclusions section. The following points are made in respect of the other concerns/issues.

- The site does not lie in any designated Strategic Gap and the Barnham & Eastergate Neighbourhood Plan gap policy refers only to the need to ensure separation between Barnham and Eastergate.
- Increased usage of Lake Lane may result in road damage but WSCC Highways have a duty to maintain all highways and will benefit from extra funding due to additional council tax receipts.
- If approved, the application would be subject to the Community Infrastructure Levy, and this would then be used to pay for the infrastructure required by the proposal; and
- The site is not adjacent to any of the biodiversity corridors designated by the Neighbourhood Plans. The nearest are along Lake Lane and Park Road.
- There is no affordable housing requirement for a scheme of 7 dwellings.
- Construction related noise and disturbance will only be temporary and can be mitigated by conditions such as by controlling working hours.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER - no objection.

WSCC HIGHWAYS - no objection and recommend no conditions.

WSCC FIRE & RESCUE - no objection subject to a fire hydrant condition.

ADC ENVIRONMENTAL HEALTH - no objection subject to conditions concerning noise mitigation (from the nearby haulage site), contamination, lighting, electric vehicle charging, and noise from air source heat pumps.

ADC ECOLOGY - initially objected due to a lack of information relating to BNG watercourse habitat and due to the age of the submitted ecological assessment. However, following the receipt of further information, confirmed no objection subject to conditions.

### COMMENTS ON CONSULTATION RESPONSES:

Noted. The ecological assessment was 16 months old at the time of submission whereas guidance from the Chartered Institute of Ecology and Environmental Management (CIEEM) states those surveys that are between twelve months and eighteen months old are, in the main, considered likely to be valid, unless there has been a significant change in circumstance on site or within the zone of influence. No such change in circumstance has been identified therefore it is appropriate to conclude that the survey was still valid at the time of submission.

## POLICY CONTEXT

Designations applicable to site:

- Outside the Built-Up Area Boundary (BUAB).
- Predominantly current/future Flood Zone 1.
- Flood Zone 3b around the northern and eastern boundaries (line of ditch).
- Potential for high groundwater levels.
- Some parts of the site are noted as being at low risk (1:1000-year) for surface water.
- Lidsey Treatment Catchment Area.
- Part within a Lidsey Flood Risk Zone.
- Area of Special Control of Adverts.
- Likely Grades 1 or 2 Agricultural Land.
- Half of the site is in Protected Sharp Sand & Gravel Area; and
- CIL Zone 3.

### DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design

ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HSP1	HSP1 Housing allocation the housing requirement
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
SODM1	SO DM1 Soils
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](#)      Protection of Trees and Hedgerows  
[VE3](#)

Walberton Neighbourhood Plan Policy 2019-2031      Surface Water Management  
 VE7

Walberton Neighbourhood Plan Policy 2019-2031      'Unlit village' status  
 VE8

Walberton Neighbourhood Plan Policy 2019-2031 7      Biodiversity Corridors  
 VE10

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

Walberton Neighbourhood Plan Policy 2019-2031      Housing mix and construction  
 HP6

Walberton Neighbourhood Plan Policy 2019-2031      Housing Density  
 HP11

Walberton Neighbourhood Plan Policy 2019-2031      Design Guidance  
 HP13

Walberton Neighbourhood Plan Policy 2019-2031      Traffic Management  
 GA5

Barnham & Eastergate Neighbourhood Plan 2019      Support and retain Equine businesses  
 POLICY EE8

Barnham & Eastergate Neighbourhood Plan 2019      Flooding  
 POLICY ES1a

Barnham & Eastergate Neighbourhood Plan 2019      Reducing Flood Risk  
 POLICY ES1b

Barnham & Eastergate Neighbourhood Plan 2019      Sewage  
 POLICY ES1c

Barnham & Eastergate Neighbourhood Plan 2019      Quality of design  
 POLICY ES5

Barnham & Eastergate Neighbourhood Plan 2019      Trees and Hedgerows  
 POLICY ES10

Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES14	Development on Agricultural Land
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES15	Green Infrastructure and Ecosystem Services
Barnham & Eastergate Neighbourhood Plan 2019 POLICY ES16	Dark night skies
Barnham & Eastergate Neighbourhood Plan 2019 POLICY GA4	Parking and new development
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H1	Housing
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H4	Integration of new housing into surroundings
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H5	Outdoor space
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H6	Attention to detail
Barnham & Eastergate Neighbourhood Plan 2019 POLICY H8	Settlement boundary

#### PLANNING POLICY GUIDANCE:

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

#### SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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. The Walberton Neighbourhood Development Plan was made in July 2021 and its policies are referred to in this report. The Barnham and Eastergate Neighbourhood Plan was made in March 2022 and its policies are also referred to.

#### 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 conflicts with the development plan in that it would result in development outside of the defined settlement boundary and on high value agricultural land.

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 other than as discussed below.

**CONCLUSIONS**

**INTRODUCTION:**

The site is dual parish with the existing access driveway in the Barnham & Eastergate area, and the actual development site in the Parish of Walberton. No new physical development is proposed on the access, and it is only relevant to refer to the Barnham and Eastergate Neighbourhood Plan (BENDP) policies in respect of the increased use of the access, foul drainage, impact on the character of the area and the residential amenities of existing dwellings within the BENDP area. Anything concerning the principle of development and the physical development of the site shall be assessed against the Walberton Neighbourhood Development Plan (WNDP). The Arun Local Plan (ALP) policies apply to all of the development area.

**PRINCIPLE OF RESIDENTIAL DEVELOPMENT:**

The site is outside of the BUAB in the ALP and the VNDP with the closest area of BUAB being 127m to the south-west of the site boundary but with intervening development. However, this is not an unsustainable location, and it is possible to access local shops and services such as those in Barnham (which includes a railway station) by cycle or on foot via Lake Lane (heading west). The majority of Lake Lane is not lit at night and several sections do not have pavements, but vehicle speeds are not excessive and there is plenty of visibility for pedestrians and places to step off the carriageway.

ALP policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal and so the proposal conflicts with the ALP. The VNDP was made in July 2021 and policy HP1 maintains that development in the countryside is inappropriate unless for a form of development in accordance with ALP policy C SP1. There is conflict with this policy.

The council cannot currently demonstrate a 5-year Housing Land Supply (HLS) and so the presumption in favour of sustainable development is engaged (paragraph 11(d) of the NPPF) - and also by the most up-to-date Housing Delivery Test results (as published in December 2024) which showed that Arun delivered 70% of its housing requirements between 2020 and 2023. The council's latest 5-year Housing Land Supply (HLS) figure was publicised through the Authority Monitoring Report (AMR) in January 2025, and this shows that it has fallen from 4.17 years to 3.41.

Whilst it is accepted that there is residential development on Lake Lane and Park Road which is in the designated countryside, this does not automatically mean that it is appropriate to extend such areas.

Paragraph 14 of the NPPF states where the 'presumption in favour of sustainable development' applies



to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the Plan is less than 5 years old and contains policies and allocations to meet its identified housing requirement. The WNDP was made in 2021 and includes several policies/allocations for new housing in line with the indicative requirement at the time the WNDP was examined. On this basis where there is conflict with the plan, the NPPF directs that this will likely outweigh the benefits.

The relevance of paragraph 14 to decisions within the Walberton area was discussed at a recent planning appeal hearing concerning application WA/35/23/OUT (APP/C3810/W/24/3349836) at Wandleys Lane. The Inspector stated that there were issues with how the WNDP housing target had been calculated and stated that it was likely far higher than the figure of 51 homes but agreed this was not the right place to re-examine the WNDP. The Inspector therefore considered para 14 of the NPPF should be engaged as a precaution.

The Inspector stated it was important to emphasise that whilst conflict with the WNDP is a matter of considerable importance and is likely to be decisive, it is the likely outcome of the balance rather than a prescribed one. The Inspector then stated the evidence suggests that there is an ongoing need in Walberton parish for perhaps 187 to 465 homes by 2041. The scheme represented a logical extension of the settlement, resulted in only moderate harm, is sustainable and attracted significant benefits.

The Inspector concluded that this was a rare occasion where the adverse impacts of conflicting with a neighbourhood plan are unlikely to significantly and demonstrably outweigh the benefits and that the benefits would outweigh the harm.

#### **AGRICULTURAL LAND:**

Whilst the land is not currently used for agriculture, as per Defra's Provisional Agricultural Land Classification mapping (<https://magic.defra.gov.uk/magicmap.aspx>), the site is indicated to be either grade 1 or grade 2, therefore is potentially best and most versatile agricultural land.

Arun Local Plan policy SO DM1 states that the use of grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term. There are no agricultural land policies in the WNDP.

As set out elsewhere, the Council cannot demonstrate a 5-year HLS as required by the NPPF. The 7 dwellings will have only a minor positive impact on the housing supply but there is clear need for more housing land to resolve the situation and this need outweighs the harm associated with the loss of the land for development. It is material that the site is not presently used for agriculture, is not physically connected with adjacent countryside/agricultural land and that the only access is between existing dwellings which may not be suitable for agricultural vehicles. It is material that the preamble in the ALP to the policy states that the supporting reports (criteria a-g of the policy) are not required for sites of less than 1 hectare.

The development as proposed would result in the loss of land which has potential to be agricultural land grades 1 or 2, but this is acceptable in this case due to the arguments presented above. As such, there is no conflict with policy.

#### **FLOODING & SURFACE WATER DRAINAGE:**

The site is in Flood Zone 1 and is at very low risk of flooding from rivers/seas. The site is potentially at risk of groundwater flooding but at low risk of surface water flooding. The site is in the Lidsey Treatment

catchment area and part of it lies within a Lidsey Flood Risk Zone (LFRZ). It is recognised that the northern and part eastern boundaries (reflecting the line of the watercourse) are in defined Flood Zone 3b (functional floodplain) but no proposed houses or gardens are located in these areas and so it is not relevant to consider this further.

ALP policy W DM2 refers to flood risk, the sequential/exception tests and mitigation measures. Policy ECC SP1 states development must be located & appropriately designed to adapt to impacts arising from climate change such as the increased probability of tidal and fluvial flooding. ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SuDS) as appropriate to the size of development. WNDP policy VE7 requires new development make appropriate provision for accommodating the surface water arising from the development.

The applicant has submitted a Flood Risk Assessment (FRA), Drainage Impact Assessment (DIA) and a SuDS Drainage Technical Note. These set out:

- The LFRZ identifies historical flooding in the north-western corner from surface water due to capacity/unmaintained ditches, including a poor arrangement of a rubbish screen.
- Historical flooding due to groundwater is noted due to a spring behind properties to the east side of Park Road.
- The overall flood risk profile of this site is low and so there is no need to consider the NPPF tests or mitigation.
- Infiltration is not feasible due to the clay geology.
- Therefore, the drainage strategy will be to use road gullies and underground attenuation tanks all draining the site via gravity to an attenuation basin at the northern end. This will then drain to the watercourse at a controlled greenfield rate; and
- The system will include measures to filter the water prior to its discharge to the watercourse.

Neither this nor the previous application were subject to any consultation response from ADC's drainage engineers, and so it is unclear whether the proposals are acceptable in principle. However, it would not be appropriate to raise objection without such technical expertise. Planning conditions can be imposed to secure the details of the system at a later date and on this basis, the proposal has to be determined as being in accordance with the relevant policies.

Local resident concerns over drainage and flooding are noted but this development would be subject to a drainage solution that will ensure all surface water is removed from the site, and this may result in an improvement on the existing situation. The proposal would not have any impact on the existing surface water flooding that takes place on Lake Lane when it rains since all water will be discharged to the North and therefore away from the road.

#### FOUL DRAINAGE:

The site lies in the Lidsey Wastewater Treatment Catchment Area and in a LFRZ. ALP policy W DM1 states all development must demonstrate that adequate drainage capacity exists or can be provided as part of the development. In addition, applications must be accompanied by a Drainage Impact Assessment (DIA) that takes account of both the individual and cumulative impact upon foul water disposal, flood storage capacity and surface water drainage or flood flows within the Lidsey area. There is no relevant WNDP policy but BENDP policy ES1c states proposals must demonstrate that sewage infrastructure cannot release into or be infiltrated by surface water. The submitted FRA states:

- The development will discharge its foul flows to the existing sewer under Lake Lane.
- Because of the adverse gradient, a pumping station will be needed to convey the flows from the dwellings towards the southern end (Lake Lane).

- Permission to discharge into the sewer, by means of a s106 application, will be required from Southern Water; and
- The DIA confirms that surface water will not be able to mix with the proposed on-site foul sewer or the existing Lake Lane sewer and the proposal will not increase local flood risk.

Southern Water raise no objection and make no comments on the capacity of the existing network. They do not request the imposition of any conditions, but a suitable condition could still be imposed to ensure the final system is appropriate. Resident concerns are noted but in the absence of an objection from the sewerage undertaker, it is not appropriate to determine a conflict with the relevant policies.

Noting the requests by the Parish and residents for Grampian style conditions to prevent commencement or dwelling occupations until the sewer system has been upgraded, it is material that the Inspector's decision on the recent Wandleys Lane appeal (as referred to above) was faced with the same concerns and imposed a condition which required the submission of a phasing and implementation plan to detail how the development will be phased to align with the delivery by Southern Water of any sewerage network reinforcements. A similar condition would be appropriate although there is a clear difference in scale between these proposals (7 dwellings versus up to 95) and it may well be the case that no upgrades are required for this number.

#### MINERALS SAFEGUARDING:

The site is in a Sharp Sand and Gravel Mineral Safeguarding Area as defined by the West Sussex Joint Minerals Local Plan (JMLP). Policy M9 (b) states that proposals for non-mineral development within the Minerals Safeguarded Areas will not be permitted unless: (i) Mineral sterilisation will not occur; or (ii) it is appropriate and practicable to extract the mineral prior to the development taking place, or (iii) the overriding need for the development outweighs the safeguarding of the mineral and it has been demonstrated that prior extraction is not practicable or environmentally feasible.

The applicant has not provided any mineral resource assessment. However, the proposal would comply with criteria (iii) of the policy as there is an overriding need for new residential development to contribute to the council's current HLS deficit. In addition, it would not be practical to extract the minerals before development due to the access being unsuitable for heavy vehicles. On this basis, there is no conflict with the policy.

#### TRAFFIC & ROAD SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access onto the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

WNDP policy GA5 seeks to resist the increase in traffic through the village whilst BENDP policy GA1 requires proposals provide access to public and community transport. Policy GA4 requires proposals provide the maximum level of off-street parking consistent with current standards.

Para 115 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Para 116 states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios."

Residents' various concerns with the access arrangements are noted but it is material that the NPPF places a high threshold on the level of impact that would be unacceptable. In practice, this means that it is very difficult to sustain a highway related refusal at appeal, particularly one concerning a localised impact.

The site is served by an access and whilst this is narrow and will not allow for vehicles to pass each other (and it may be hard for drivers to navigate past pedestrians), it is only around 60m in length and vehicles using it will be doing so at a low speed. In addition, the access currently only serves 4 dwellings and proposed additional traffic generation figures are low (3 additional two-way trips per am peak and 3 additional two-way trips per pm peak). These factors combine to mean that instances of vehicles meeting other vehicles or pedestrians will be infrequent and, in such situations, it will be possible for one party to take steps to resolve the impasse.

Contrary to objections from residents, the access is wide enough for a fire tender to access the site. WSCC Fire and Rescue advised on the previous application that their widest vehicle is 2.86m wide (including its mirrors) so it can easily use the site access which residents state is 3.8m wide at its narrowest. Residents state that the gate posts at the southern end of the access narrow the width to distance to 3.4m. This would still be sufficient for fire access, and it may be the case that the gates are removed in the long term. WSCC Highways raise no concerns with the junction of the access with Lake Lane.

The layout includes 19 allocated off-street parking spaces and 2 visitor spaces. The requirement as per the councils Parking Standards SPD is 19 allocated and 1.4 visitor so the layout is compliant with the standards. Each dwelling will be provided with an external cycle store/shed capable of storing 2 bicycles and this is in accordance with the standards.

The proposal does not include any spaces suitable for people with disabilities (the requirement per the Parking SPD is 1 space) and the spaces are all only 2.4m by 4.8m in size (versus the Arun Design Guide requirement of 2.5m by 5m). However, the latter is guidance not policy and in respect of disabled people parking provision, it is material that there is no requirement to provide any adapted housing for a development of this size. On the basis of the above, the proposal complies with ALP policy T SP1.

#### WASTE COLLECTION:

ALP policy WM DM1 requires that kerbside collection is possible for new developments. As set out above, the access is 3.8m at its narrowest point or 3.4m where the southern gates are. Arun DC use a 2.55m wide vehicle so this can easily fit in the space available. This would ensure that the waste vehicle can access the site. There is then a turning head shown within the layout for such vehicles to be able to turn and exit in a forward gear. As such, there is no conflict with this policy.

#### LAYOUT, DESIGN AND CHARACTER:

ALP policies D SP1 and D DM1 require development make the best possible use of land by reflecting or improving on the character of the site/surrounding area. WNDP policy HP11 requires the density to be appropriate to its location by virtue of size, siting, and relationship to existing properties. Policy HP13 states new development must be high quality and contribute to local character by creating a sense of place appropriate to its location.

BENDP policy ES5 also requires high quality design, development to respond to the local landscape character and integrate with the built environment. Appendix D of the BENDP comprises a local Design Guide. This includes guidance on maintaining building lines and settlement/built development patterns as

well as other detailed aspects.

The Arun Design Guide (ADG) suggests a density of 15-25 for detached/semi-detached houses in village locations and states density should decrease with distance from the centre of a settlement, to ensure development relates sensitively to its setting and addresses edges of the site in a positive way. The site density of 13.5 is acceptable.

Generally speaking, the ADG states new development must ensure the existing character and sense of place of an area is respected and enhanced. This can allow for new design forms but only where these take cues from well-designed elements of the area. New development should generally reflect the scale of existing buildings and should avoid overshadowing of neighbouring properties. They should not detract from the character and appearance of the building and local area. Part Q discusses rural development and requires that development is simple, unobtrusive, traditional and respects rural character. There should be an emphasis on landscape integration and the avoidance of overly detailed buildings.

The site is backland given it is behind four dwellings which front Lake Lane and is behind the dwellings on the eastern side of Park Road. Backland development is generally seen as inappropriate since it fails to respect the character of the settlement pattern. It is acknowledged that the site has an existing access to the horse paddock and the rears of the 4 dwellings. As such, vehicle movements along the access are already an accepted part of life and this fact serves to lessen the impact on the streetscene and adjoining neighbours. However, the increase in activity on the site will still be noticeable as will the change from natural land to built development.

It is acknowledged that there is already backland development to the immediate west as the dwellings "Ridgeway" and "The Drive" (on Park Road) were previously developed on rear garden land in the same way as that now proposed. However, these have been in situ for some time (e.g. the planning history gives 1960 as the approval date for the Ridgeway) and are therefore an accepted part of local character. They were determined at a time when design guidance was not so strong and when there were no neighbourhood plans. That development was also much smaller in scale than that proposed. They lend no support to this new proposal.

The proposal will clearly introduce new dwellings in a backland location beyond and in conflict with the established street scenes of Lake Lane, and to a lesser extent, Park Road. The development will be in clear conflict with the established 'settlement' pattern. It will result in the loss of a pleasant natural space presently enjoyed visually by several adjoining and adjacent residents.

As regards the scheme itself, the layout is appropriate to the size and shape of the site. It uses bungalows in the locations closest to existing development and largely retains a back-to-back arrangement to the dwellings to the west. It includes sufficient parking, space for drainage and minimises the impact on the trees to the boundaries. There is no requirement under council policy for a site of this size to have any on-site open space or play facilities.

The building designs are traditional in appearance and the submitted Design & Access Statement (DAS) confirms they are in keeping with local character in terms of scale, massing, architectural style, and detailing. There is a mix of single and two storey dwellings which reflects the local area. A mixed palette of traditional vernacular materials is proposed to reflect and compliment the mix of materials found in the surrounding area.

The layout, scale and architectural treatment of the scheme is acceptable however, this is the wrong place for a development of this scale in terms of local character and built development pattern. As such, the proposal conflicts with ALP policies D DM1 & D SP1, WNDP policy HP13, and BENDP policy ES5.

## 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. WNDP policy H11 refers to the need to take account of the relationship to existing properties. The ADG sets out the following guidance on interface distances between houses:

- Back-to-Back: min. 21m between habitable rooms of properties or to existing buildings.
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property.
- Front to Front: min. 16m between habitable rooms of properties facing each other.
- There are no standards for either side to side or front to back.

The scheme has been checked and is deficient in respect of the interface distances between the front of plot 1 and the side of plot 2 (12.1m). It is deficient in respect of the distance from the rear of plot 1 to the rear of "The Drive" (about 12.3m). However, plots 1 and 2 are bungalows have no first-floor windows. Also, plot 2 has no windows on its western side elevation. The Drive has no windows facing the site. In all cases there will be no overlooking between windows and given the ADG is guidance only, it is appropriate in this instance to deviate from the standards.

Conditions can be applied to the proposal to ensure that all new lighting is the minimum required, and this will ensure no adverse impact on the relevant neighbourhood plan dark sky policies and protect wildlife species using the site's boundaries. Conditions could also be proposed to remove permitted development rights for say roof related development including dormers to protect the amenities of existing adjacent dwellings.

## QUALITY OF ACCOMMODATION:

ALP policy D DM2 states internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. The application demonstrates all dwellings meet or exceed required standards. The ADG requires rear gardens to be a minimum of 10.5m deep and front gardens at least 2m. The layout has been checked, and the majority of the front/rear gardens meet the required standards. The exception is plot 1 which has a 9.9m deep side garden. However, boundary fencing will ensure this is a private space and there is additional space to the rear, so the overall quantum of garden space is sufficient. The standard of accommodation and private amenity space is in accordance with the relevant ALP policies and the ADG.

## TREES &amp; LANDSCAPE:

ALP policy D DM1 requires developments to incorporate new tree planting and to improve on character through landscaping. Policy ENV DM4 states TPO protected trees, those in ancient woodland, in a Conservation Area or trees that contribute to local amenity should not be damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. WNDP and BENDP policies VE3 and ES10 both refer to the need to protect trees.

The previous application was partly refused on the grounds that despite there being a number of trees present on the site; the application stated no trees were affected and thus did not provide any tree survey documents. The application does now include an Arboricultural Impact Assessment (AIA) and separate Method Statement (AMS). The Tree Protection Plan mentioned in the latter does appear to be missing and would need to be secured by condition however it is otherwise now clear from the documentation which trees are affected. The submitted AIA sets out the following impacts:

- Removal of one class C Goat Willow tree.
- Pruning of two class B trees, one class A tree and one class C tree to provide clearance for plot 7.
- Pruning of one class B tree for arboricultural reasons and to provide clearance to the access road.
- Pruning of one class B tree and one class C tree to provide clearance from the access.
- A minor incursion into the Root Protection Area (RPA) of a class B tree to accommodate the access road (the incursion is 4.5% of the RPA).
- A similar RPA incursion into the southernmost tree in G4 (class B) for the car port that forms part of Plot 2.
- A minor incursion into the RPA of a class B tree to accommodate the car port for plot 7 (the incursion is 2% of the RPA); and
- Potential for harm to class C trees due to new service runs out to Lake Lane but this will be mitigated by laying services as far away as possible and carrying out works by hand under arboricultural supervision.

These works are minor and will be compensated for by new tree planting and other landscaping within the scheme. A condition would be imposed to seek a landscaping scheme. The Council's Tree Officer has not provided any consultation comments and so it would be difficult to justify a refusal on grounds of impact to important trees.

In addition, it is noted that plots 3, 5, 7 will have existing large trees on their western side and these may shade gardens which could result in future pressure to prune or fell. However, these impacts are mitigated by the fact that all of these plots will receive light from the south (plus from the east and south-west) and that these trees will provide privacy to the gardens thus they will continue to have value.

The proposed development is in accordance with the relevant policies as none of the existing trees are protected, they are largely not visible from the public domain and the benefits of 7 new houses and new landscaping easily outweighs the very minor impacts.

#### BIODIVERSITY:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. WNDP policy VE10 2020 states proposals will not be supported where there is evidence that the proposals would significantly harm biodiversity. It also advises that where proposals will have an impact on Biodiversity rich habitats, a management plan shall be provided.

The application includes a Preliminary Ecological Appraisal (PEA), Bat Survey, and Reptile Survey. The Council's Ecologist previously found the PEA to be generally acceptable but as it had recommended further bat and reptile surveys which had not been provided, objection was raised and ultimately this formed a refusal reason. These have now been provided, and the Ecologist has reviewed these and raises no concerns.

The previous application was also deficient due to there being no management plan for the biodiversity rich Chalk Stream habitat which skirts the eastern and northern site boundaries. This resulted in specific conflict with the WNDP policy. The application now includes a Chalk Stream Assessment which includes mitigation and management measures. The Council's ecologist raises no objections to the submission in this respect.

Unlike with the first application, this proposal is now eligible for statutory Biodiversity Net Gain (BNG). The application proposes to provide the following BNG on site: 0.08 Habitat Units (1.75%) and 0.18 (54.08%) watercourse units. The scheme therefore fails to provide a net gain in habitat units although does exceed the requirement for watercourse units. The applicant therefore proposes to purchase off-site units via either the Environment Bank or a local habitat bank. This off-site approach is allowed by the BNG regulations and the Council's Ecologist raises no concerns.

The proposed scheme now overcomes the previous refusal reason and complies with the relevant policies.

#### CLIMATE CHANGE:

ALP policies ECC SP1 and SP2 requires all new residential and commercial development be energy efficient, designed to adapt to impacts arising from climate change, and incorporate decentralised, renewable, & low carbon energy supply systems. The submitted DAS includes a sustainability statement which proposes the use of Air Source Heat Pumps, Electric Vehicle Charging points and the use of modern ventilation/air tightness standards. Conditions can be imposed to secure the details of these proposals. A condition could also be imposed to require water efficiency measures to ensure the scheme achieves the optional target of 110 litres per day for all homes. Such conditions would then ensure compliance with the policies.

#### SUMMARY:

This report identifies that the proposal is in conflict with the development plan policies in respect of development in the countryside, and harm to local character. This is by definition an unsuitable location for new homes having regard to the spatial characteristics of the area and the local built development pattern. The application is for seven dwellings and so the benefits would be limited in scope.

The NPPF presumption in favour of sustainable development 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 (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Given the minor nature of the benefits, the clear policy conflicts and the weight given to those conflicts which relate to the relevant neighbourhood plans (given the effect of para 14 of the NPPF), it is concluded that the adverse impacts would clearly outweigh the benefits and so a refusal is justified.

As noted elsewhere, a recent appeal decision at Wandleys Lane confirmed that para 14 of the NPPF should be applied to the considerations of applications in the Walberton Parish area. The Inspector stated it was important to emphasise that whilst conflict with the WNDP is a matter of considerable importance and is likely to be decisive, it is the likely outcome of the balance rather than a prescribed one.

The Wandleys Lane decision was allowed with the Inspector having regard to the benefits of up to 95 homes, the sustainable nature of the site and the fact that the site was adjacent to the BUAB so represented a logical extension. However, the inspector concluded that this was a rare occasion where the adverse impacts of conflicting with a neighbourhood plan are unlikely to significantly and demonstrably outweigh the benefits and that the benefits would outweigh the harm.

This site is close to but would not extend the BUAB and the benefits of 7 dwellings are on a completely different level to those of the appeal scheme and it is therefore appropriate to take a different view in the planning balance.

It is also relevant to note an appeal decision concerning a site a short distance to the east (Toddhurst Farmhouse, Lake Lane - WA/12/24/PIP, APP/C3810/W/24/3344161) which was dismissed with the Inspector identifying harm to character and confirming the relevance of para 14. Whilst this site has a



different context to the application site, it is material that the Inspector stated that the proposal would differ to the established line of development along Lake Road that runs towards Barnham. The same is true of the current application.

## 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.

## RECOMMENDATION

### REFUSE

- 1 The site lies in the designated countryside and is an unsuitable location for new residential development having regard to the spatial characteristics of the area and the character of Lake Lane in conflict with Arun Local Plan policies C SP1, D DM1 & D SP1, Walberton Neighbourhood Development Plan policies HP1 & HP13, Barnham & Eastergate Neighbourhood Development Plan policies H8 & ES5 and with reference to the weight to be afforded to Neighbourhood Plans by virtue of paragraph 14 of the NPPF.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.