

Recommendation Report for Planning Permission

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| REF NO:   | WA/59/20/PL                                                                                                                                                                                                                                                                                                                                                                                                                     |
| LOCATION: | Land East of Tye Lane<br>Walberton<br>BN18 0DN                                                                                                                                                                                                                                                                                                                                                                                  |
| PROPOSAL: | A re-plan of part of the approved (outline planning permission WA/44/17/OUT and reserved matters approval WA/95/18/RES) and partially implemented development on the site, which currently has approval for 175 dwellings; to develop an additional 30 dwellings including 9 affordable units on part of the site. The proposal includes an increase in the number of dwellings on part of the site from 81 units to 111 units. |

SITE AND SURROUNDINGS

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|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION            | <p>This planning application is for the re-plan of part of the approved WA/44/17/OUT and WA/95/18/RES and partly implemented development on the site, which currently has permission for 175 dwellings; to develop an additional 30 dwellings including 9 affordable units on part of the site.</p> <p>The proposed re-plan includes an alteration to the approved housing mix by increasing the number of 1-bed, 2-bed and 3-bed dwellings and reducing the number of 4-bed dwellings; increasing the number of dwellings on part of the site from 81 units to 111 units; and revising the number of visitor parking spaces.</p> |
| SITE AREA                             | <p>The proposed re-plan covers an area of 4.0 hectares.</p> <p>The wider site known as "Avisford Grange" covers an area of 10.5 hectares.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| RESIDENTIAL DEVELOPMENT DENSITY (NET) | 29 dwellings per hectare.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| TOPOGRAPHY                            | Predominantly flat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| TREES                                 | The site includes a number of trees subject to Tree Preservation Orders (TPOs) along the boundaries of the site, including a cluster in the south eastern corner of the site and a single tree that is subject to a TPO in close proximity to the southern boundary of the site with Walberton and Binstead Primary School.                                                                                                                                                                                                                                                                                                       |
| BOUNDARY TREATMENT                    | The site is bounded by hedgerows and hedgerow trees along the western and part of the southern boundary of the site; by railings along the southern boundary with Avisford Park Road; by close boarded fencing along the eastern boundary; and by ranch style fencing along the northern boundary with the Avisford Park Golf Course.                                                                                                                                                                                                                                                                                             |

## SITE CHARACTERISTICS

The site comprises a large arable field with narrow field margins, bordered by hedgerows and trees. The site is generally gently sloping and there are a couple of notable trees within the site to the south east corner and trees/hedgerows along the boundaries of the site.

Linden Homes are marketing the site as "Avisford Grange" and they have constructed and opened the site access from Yapton Lane; they have closed-off the former contractor access from Avisford Park Golf Club and turfed it over. The show homes and the visitor reception are open for business, but none of the houses on the site appear to be occupied. There is a barrier controlling access into the construction area. The TPO'd trees in the south eastern corner of the site are protected by fencing. The large attenuation pond in the south east part of the site is currently being excavated. The contractors have cleared the trees and hedgerow along the Tye Lane frontage, which currently has approval for the emergency vehicles access, together with a footway / cycleway link onto Tye Lane.

## CHARACTER OF LOCALITY

The area is rural in character with housing in Walberton Village, including the Conservation Area and related listed buildings, the Walberton and Binstead Primary School, Walberton Recreational Ground and Avisford Park Road to the south of the application site. The Recreational Ground includes a playing field which contains a cricket square and the outfield has also been used to provide football pitches.

The site is bounded to the north by Avisford Park Hotel golf course, associated buildings and historic parkland. To the west the site is bounded by Tye Lane, with open farmland beyond. To the east the site is bounded by housing and Yapton Lane, beyond which is open farmland and the golf club's back 9 holes.

## RELEVANT SITE HISTORY

|              |                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                  |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| WA/95/18/RES | Approval of reserved matters following outline consent for the erection of 175 No. dwellings, car parking including garages, internal access roads, footpaths, parking & circulation areas, hard & soft landscaping, allotments, play areas/equipment & community orchard & other associated infrastructure & engineering works. This application may affect the character & appearance of the Walberton Village Conservation Area. | ApproveConditionally<br>16-04-19 |
| WA/44/17/OUT | Outline application with some matters reserved for up to 175 dwellings, new vehicular access, together with                                                                                                                                                                                                                                                                                                                         | App Cond with S106<br>23-02-18   |

associated car parking, landscaping & community facilities to include allotments, play space & community orchard. This application is a Departure from the Development Plan & may affect the character & appearance of the Walberton Village Conservation Area.

WA/93/20/PL      Alternative access & emergency access along with minor highway works following WA/95/18/RES. This site is in CIL Zone 2 (Zero Rated) as other development.

The outline planning application (WA/44/17/OUT) was subject to a call-in request, but the Secretary of State resolved not to call-in the application. The outline planning permission was granted by Arun District Council on 23rd February 2018; and WA/95/18/RES is currently being implemented on site.

A pre-app (PAA/70/20) was submitted for the development of an additional 30 dwellings on the site and it was concluded that were an application for planning permission to be submitted it would be likely to be refused due to the lack of detail. A draft layout plan was submitted with the pre-application submission which included a high number of semi-detached dwellings. No street-scenes or elevational details of any of the dwellings were submitted with the pre-application correspondence, so the Local Planning Authority was unable to assess whether the proposed development would be in keeping with the character and appearance of the approved residential development at "Avisford Grange" or the surrounding area.

## REPRESENTATIONS

### WALBERTON PARISH COUNCIL:

No objection.

It is requested that the 9 additional affordable homes have a local connection to the Parish.

The Parish Council has no objection to the proposed revisions to the re-plan.

Arun District Conservation Area Advisory Panel raised no objection to the proposed development:

- There appears to be very little change in impact on the setting of Walberton Conservation Area.
- High quality external materials, i.e. plain clay roofs, vertical tiles and natural slate are required.

Nine letters of representation have been received from local residents objecting to the proposed development on the following grounds:

- Walberton is already being dwarfed by the housing development on this site.
- The shoehorning of another 30 houses onto the site is unacceptable.
- This is a common tactic by developers to top-up an application by an extra 10%-15% of houses.
- There is no justification for the increase in number of houses on the site.
- The development of more houses risks ruining the character of the village.
- The infrastructure is at breaking point, including foul water drainage.
- The development would result in more pressure for places at Walberton and Binsted Primary School.
- There is no additional provisioning for local services or infrastructure.
- The noise, air pollution and traffic would adversely affect the quality of life of the existing residents of the village.
- What about the wellbeing of the people who will live in these shoeboxes?
- Traffic noise from the A27 is now audible every day since house building commenced on the site.
- Could the developer install noise mitigation measures to prevent the noise of A27 traffic being heard?

- Highway England's chosen route for the A27 is to pass over this site, more houses must not be added
- The site access may be re-located to Tye Lane if the Grey Route for Arundel Bypass goes ahead.
- Tye Lane is narrow road and an extra 30 houses means even more cars on Yapton Lane at rush hour.
- Yapton Lane is a fast and busy road and the additional traffic would increase road safety issues.
- The village is already congested at busy times and used as a rat run.
- The site now has a large entrance on Tye Lane, which was not in the original planning permission.
- Cyclists should be able to access the site from Yapton Lane to the east.
- A few months ago there was a flood on The Street caused by an outflow of muddy water from the site.
- There is a concern about the lack of the existing sewer network to cope with the additional housing.

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

All planning related comments are noted and covered in the Conclusions section of this report.

|                      |
|----------------------|
| <b>CONSULTATIONS</b> |
|----------------------|

#### **CONSULTATION RESPONSES RECEIVED:**

##### **HIGHWAYS ENGLAND:**

No objection.

Highways England is content that the original mitigation and trigger points set out in the Section 106 Agreement for WA/44/17/OUT are still appropriate for the whole site. An informative is required on the Decision Letter saying that the original mitigation required for WA/44/17/OUT is implemented between the two applications. On this basis, the proposal would not materially affect the safety, reliability and / or operation of the Strategic Road Network.

##### **LOCAL HIGHWAY AUTHORITY:**

No objection.

The access to the site would remain as existing with a simple priority junction onto Yapton Lane. Conditions are requested regarding the provision of car parking and secure cycle parking, the submission of a Construction Management Plan and the implementation of the measures set out in the Travel Plan.

##### **WSCC FIRE & RESCUE SERVICE:**

No objection.

A condition is required regarding the proposed location of additional fire hydrants for the proposed development.

##### **ENVIRONMENT AGENCY:**

The application falls outside the EA's consultation checklist. No consultation response submitted.

##### **SPORT ENGLAND:**

No objection.

If the proposal includes the provision of additional housing then it would generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demands then new and / or improved sports facilities should be secured and delivered.

##### **ADC HOUSING:**

No objection.

##### **SOUTHERN WATER:**

No objection.

An initial desktop study indicates that additional surface water flows from the proposed development may lead to an increased risk of flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this would be provided by Southern Water. Southern Water endeavour to provide reinforcement within 24 months of planning permission being granted. Due to surface water inundation in the Lidsey Catchment, the developer should look to protect the public sewerage system. Conditions are requested regarding the phased occupation of the development, and the submission of the details of the proposed means of foul and surface water sewerage disposal.

**ADC DRAINAGE:**

Object.

The maximum pond water levels stated on layout and cross sections do not correspond with that stated within calculations. Permeable paving finish and formation levels are inconsistent between calculations and drawings. The levels information supplied is insufficient to verify and understand flow exceedance routes. As the site is sloping, multiple spot finish and formation levels on permeable paving are required to be submitted. A manhole schedule should be submitted.

**ADC ENVIRONMENTAL HEALTH:**

No objection.

The mitigation measures recommended in the acoustic report and the air quality report should be conditioned.

**ADC ECOLOGY:**

No objection.

ADC Ecology is satisfied that consultation responses to the previous applications WA/95/18/RES and WA/44/17/OUT are still applicable and that the updated information provided including the Ecological Mitigation and Enhancement Plan (September 2020) is suitable and should be conditioned.

**ADC ARCHAEOLOGY:**

No objection.

No further archaeological intervention is warranted.

**ADC CONSERVATION OFFICER:**

There are no heritage assets on the site, but there are a number in close proximity to it. These assets are both designated and non-designated they include Walberton Village Conservation Area and Avisford Park Hotel a Grade II Listed Building, and a number of Grade II listed buildings and locally listed 'Buildings or Structure of Character' fronting The Street, to the south and south-east of the site. The application is considered to not cause harm to the significance of the heritage assets or their setting. As a consequence, it should be determined in accordance with the relevant policies within the Development Plan, along with these comments. You will also need to take into account the contents of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

**ADC GREENSPACE:**

No objection.

This scheme is a good scheme in terms of the public open space (POS) and play which is being offered. The proposed play provision is an over-provision in terms of the SPD for both the existing permission for 175 dwellings and the proposed re-plan comprising 205 dwellings. As the combined POS and Play areas provision exceeds 16,912.50m<sup>2</sup> (1.69 hectares) then the proposals for POS/Play are acceptable.

**ADC ARBORICULTURE:**

No objection.

A condition is required to ensure that the development is carried out in accordance with the updated

## Combined Tree Retention / Removal and Protection Plan.

## SUSSEX POLICE:

No objection.

The development should be designed to Secured by Design standards. The apartments should be fitted with access controls. Communal parking must be within view of an active room within a property. Ground planting should not be higher than 1.0 metre, with tree canopies no lower than 2 metres. The public footpaths should be overlooked.

**COMMENTS ON CONSULTATION RESPONSES:**

All planning related comments are noted and covered in the Conclusions section of this report.

**POLICY CONTEXT**

Designation applicable to site:

Inside the Built-up Area Boundary (BUAB) of Walberton.

**DEVELOPMENT PLAN POLICIES**

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

|        |                                                             |
|--------|-------------------------------------------------------------|
| AHSP2  | AH SP2 Affordable Housing                                   |
| 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                        |
| HWBSP1 | HWB SP1 Health and Wellbeing                                |
| ENVSP1 | ENV SP1 Natural Environment                                 |
| GISP1  | GI SP1 Green Infrastructure and Development                 |
| HDM1   | H DM1 Housing mix                                           |
| HERDM1 | HER DM1 Listed Buildings                                    |
| HERDM2 | HER DM2 Locally Listed Buildings or Structures of Character |
| HERDM3 | HER DM3 Conservation Areas                                  |
| HERDM6 | HER DM6 Sites of Archaeological Interest                    |
| INFSP1 | INF SP1 Infrastructure provision and implementation         |
| OSRDM1 | Protection of open space,outdoor sport,comm& rec facilities |
| QEDM1  | QE DM1 Noise Pollution                                      |
| QEDM3  | QE DM3 Air Pollution                                        |
| QEDM4  | QE DM4 Contaminated Land                                    |
| QESP1  | QE SP1 Quality of the Environment                           |
| SDSP2  | SD SP2 Built-up Area Boundary                               |
| TELSP1 | TEL SP1 Strategic delivery of telecomms infrastructure      |

|      |                                          |
|------|------------------------------------------|
| WDM2 | W DM2 Flood Risk                         |
| WDM3 | W DM3 Sustainable Urban Drainage Systems |

|                                                              |                                                   |
|--------------------------------------------------------------|---------------------------------------------------|
| <a href="#">Walberton Neighbourhood Plan Policy 2017 GA3</a> | Car Parking                                       |
| Walberton Neighbourhood Plan Policy 2017 HP10                | Affordable Housing                                |
| Walberton Neighbourhood Plan Policy 2017 CL6                 | Health Care                                       |
| Walberton Neighbourhood Plan Policy 2017 VE7                 | Surface Water Management                          |
| Walberton Neighbourhood Plan Policy 2017 GA2                 | Footpath Bridleway and Cycle Patch Network        |
| Walberton Neighbourhood Plan Policy 2017 HP1                 | Spatial Plan of the Parish                        |
| Walberton Neighbourhood Plan Policy 2017 HP6                 | Land at Sunny Corner Copse Lane Walberton         |
| Walberton Neighbourhood Plan Policy 2017 HP11                | Housing Density                                   |
| Walberton Neighbourhood Plan Policy 2017 HP13                | Design Guidance                                   |
| Walberton Neighbourhood Plan Policy 2017 VE4                 | Conservation Areas and Areas of Special Character |

#### 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                                    |
| SPD12 | Open Space, Playing Pitches & Indoor & Built Sports Facilities |

#### POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Walberton Neighbourhood Plan (NP) was made in March 2017. The Walberton Neighbourhood Plan is currently being reviewed. The emerging Walberton Neighbourhood Plan was published recently and it was out for Regulation 16 (publicising a Plan Modification Proposal) consultation from 12th November 2020 to 7th January 2021. The examination of the Neighbourhood Plan (NP) took place on 25 January 2021. The Council has received the Examiner's report on the Walberton Neighbourhood Development Plan Review. The Examiner's Report concludes that subject to the modifications in the report, the Plan should proceed to referendum.

Relevant Walberton NP policies have been taken account of and are addressed in the Conclusions section below.

#### DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under

the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of TCPA 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, a post-examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

The proposed re-plan is located inside the built-up area boundary (BUAB) of Walberton in the Arun Local Plan and therefore complies with the relevant Development Plan policies. The proposal would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area including Walberton Conservation Area and the Listed Buildings.

However, the proposed re-plan would not be delivering its own on-site infrastructure requirements, but it would be relying on the on-site infrastructure provided by the approved development including the provision of public open space and play space (LEAPs and LAPs), allotments and the community orchard, and shared footways/cycleways. The re-plan would not stand up on its own and meet the needs of the occupiers and users of the development and the existing community. The proposed reduction in financial contributions approved in the existing S106 Agreement is unacceptable as these contributions are required for much needed off-site infrastructure including highway works on the A27/Fontwell roundabout and the A27/Yapton Lane junction, Police and Fire and Rescue infrastructure and the proposed re-plan would prejudice the delivery of this infrastructure, contrary to Policy INF SP1, Policy T SP1 and Policy OSR DM1 of the Local Plan.

#### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

#### **CONCLUSIONS**

##### **PRINCIPLE**

The principle of residential development was established in 2018 when WA/44/17/OUT was granted for 175 dwellings on the site. The outline planning permission included the access to the site directly off Yapton Lane; and the layout, scale, appearance and landscaping details were approved under WA/95/18/RES in April 2019.

The site layout that was approved under WA/95/18/RES comprised residential development to the east and west of a central parkland area and included the construction of 5 apartment buildings (Blocks A to E inclusive), together with detached, semi-detached and terraced houses. The development of the site was predicated on 4 Character Areas: the Entrance Gateway; the Avenue; the Community Edge; and the Village and Parkland Edge.

This re-plan application involves an amendment to part of the approved residential development on the site. The proposal is to increase the number of dwellings on part of the site covered by Plots 17-20, Plots 34-58, Plots 68-69, Plot 94-115 and Plots 120-147 from 81 houses to 111 houses, an increase in the provision of housing by 30 dwellings overall. This would deliver 205 new dwellings in total across the wider site

## KEY ISSUES

The site has outline planning permission and reserved matter approval for 175 houses, comprising semi-detached houses, terraced houses and 5 apartments buildings. The key issues to be considered as part of the re-plan application are:

- How the re-plan fits in with the residential development on the wider site at "Avisford Grange"?
- What is the process / mechanism for delivering the infrastructure?
- Is it legally possible to implement the permission for the re-plan?

## TECHNICAL MATTERS

### DESIGN

The adopted Arun Design Guide says "the first step in the design process should be to carry out a detailed appraisal of the development plot and its surrounding context in order to ensure a clear understanding of the site and its wider setting. The appraisal should identify the constraints and opportunities presented by various aspects of the site and its surrounds, which will inform the upcoming development proposal. Major housing and master-planning projects should approach site appraisal strategically, considering aspects such as surrounding settlements or landscapes, drainage patterns and transport networks."

The information that has been submitted with the planning application for the re-plan sets out how the proposed residential development accords with the provisions of the adopted Arun Design Guide and the National Design Guide. The Design and Access Statement which accompanied the re-plan application provides an analysis of the site area and the wider site. The development proposals are set out in the Design and Access Statement: "a legible development, with the public realm utilised to visually link individual areas that create varying scale, massing and detailed design with an overall design framework, establishing a strong and unique sense of place".

The proposal to construct predominantly semi-detached houses, with a reduced number of detached houses would create a visually attractive development and the dwellings would be of a high quality design. It is appropriate to impose a condition requiring the submission of materials, in the interests of amenity by endeavouring to achieve buildings of high visual quality in accordance with Policy D SP1 and the Arun Design Guide.

Subject to a materials condition, the design of the semi-detached and detached houses in the re-plan comply with Policy D SP1 and Policy D DM1 of the Local Plan, Policy HP13 of the Walberton NP, the NPPF and the Arun Design Guide.

### DENSITY AND SCALE

The Outline Design and Access Statement contained an indicative residential density plan which stated that the development should not exceed 30dph. It also sought to provide a range of indicative densities within the development to provide different character areas for example lower scale densities on the rural edges of the site and higher densities in the core of the site to frame the central space.

The approved density of development was 15 dph across the whole site (i.e. 175 dwellings located within an 11.3 hectare site). The proposed re-plan would result in the density across the whole site increasing to 18 dph. The density of the approved development on the part of the site that is proposed for re-plan amounted to 21 dph (i.e. 81 dwellings within a 3.8 hectare site). The proposed re-plan would equate to a density of 29 dph (i.e. 111 dwellings within a 3.8 hectare site), which is both a sustainable and efficient use of the land and a density that is in keeping with the surrounding area; and it is a low density as set out in Section G.02 of the Arun Design Guide (i.e. indicative low density: 20-30dph).

The layout plan (Drawing No. 001 Rev. F) for the re-plan is within the 30dph threshold which was set out indicatively in the Outline Design and Access Statement. The HELAA (site ref. WA1) assessed the site capacity at 205 units (i.e. 30 dph) and the proposed re-plan equating to 29 dph would not exceed this.

The proposed re-plan comprises detached, semi-detached and terraced houses which would generally be 2 storey in height, but 4 dwellings would be 2.5 storey in height. The scale and height of the proposed dwellings is acceptable as it is in keeping with the dwellings that have already been constructed on the site and the houses in the adjacent roads to the south and east of the site.

The proposed development set out in the Design and Access Statement, showing the building heights and the density of the development in the re-plan, complies with Policy D DM1 of the Local Plan, Policy HP11 of the Walberton NP and with Section G of the adopted Arun Design Guide.

### CHARACTER AND APPEARANCE

The existing permissions WA/44/17/OUT and WA/95/18/RES included layout plans and Design and Access Statements which identified the following key character areas:

- The Entrance Gateway;
- The Avenue;
- The Community Edge;
- The Village and Parkland Edge.

The Design and Access Statement submitted with the re-plan application picks up the design principles and the criteria for the design and appearance of the dwellings in each of the Character Areas as set out in the Design and Access Statements which accompanied WA/44/17/OUT and WA/95/18/RES. The Planning Statement submitted with the re-plan application says "the proposal seeks to retain the character areas with the broad layout and footprint of detached houses being adjusted to allow for a greater provision of semi-detached houses".

The Entrance Gateway Character Area is located directly off the site access with Yapton Lane and is not affected by this proposed re-plan. The Entrance Gateway Character Area leads on to The Avenue Character Area.

The Avenue Character Area runs the length of the housing development from east to west along the primary (spine) road; and includes higher density housing including 5 apartment blocks, interspersed with green corridors formed by specimen tree planting and a swale. The proposed re-plan includes higher numbers of semi-detached houses in The Avenue Character Area.

The Community Edge Character Area runs along the southern edge of the site facing onto the Primary School and Walberton Recreational Ground, and it consists of lower density housing facing onto the large areas of green space to the south including the community orchard, the allotments and the main play area and the tennis courts. Notwithstanding this, the proposed re-plan includes a greater provision of semi-detached houses in the Community Edge Character Area.

The Village and Parkland Edge comprises the remainder of the site and it faces west towards Tye Lane and north to Avisford Park Golf Course. The Village and Parkland Edge is rural in character with larger family homes, with the use of estate railings along the parkland edge. The Village Edge is defined in the Outline Design and Access Statement in the following terms: "the residential character of this area leans more towards rurally characterised dwellings". The residential densities and heights within the Parkland Edge are lower than the rest of the development with properties more widely spaced and set back (page 66 of the Design and Access Statement). The proposed re-plan would result in an increased number of semi-detached houses in the Village and Parkland Edge Character Area.

The proposed re-plan does not affect the provision of the focal buildings (i.e. the 5 apartment buildings in Blocks A to E inclusive, two of which are currently under construction) in the Avenue Character Area, which would be located at principal junctions and prominent locations within the approved residential development. The focal buildings would have double frontages and be dual facing and incorporate detailed design features which would enhance the development framework for the housing within the specific character areas.

The Local Planning Authority was concerned initially when the re-plan was submitted that the intensification of residential development on part of the site, comprising the provision of identical semi-detached dwellings next to one another in rows would undermine the character and appearance of Community Edge Character Area and the Village and Parkland Edge Character Area site visually due to the regimented and uniform appearance of the dwellings; and would not maintain the character and local distinctiveness in these Character Areas.

During the consultation period, negotiations have taken place which have led to the submission of revised plans which have resulted in many of the proposed new semi-detached dwellings and terraced houses (i.e. Plots 16, 17 and 18) being amended to enhance their visual appearance, to introduce more variety into the house types, incorporating a range of materials from brick to render to tile hanging and flint. Revisions have been made to the front and side elevations of houses, houses have been re-configured and moved around the site so as to enhance the visual appearance of the street-scene (i.e. Plots 92 to 98 inclusive); the design and appearance of the roofs on a number of dwellings have been amended, the design of dormer windows has been altered on a number of dwellings (i.e. Plots 23, 24, 25 and 26) and chimney stacks have been introduced (i.e. Plot 43); and the size of windows and porches have been amended, to remove any risk of uniformity in the appearance of the dwellings and to visually enhance the street-scene.

The re-plan now includes amended street-scenes illustrating how the proposed new dwellings, including an increased number of semi-detached dwellings fit into the Character Areas and pick up the detailed design details which were set out in the previously approved Design and Access Statements. Drawing No. 008 - Footprint Comparison which has been submitted with the re-plan application shows the proposed new houses overlain over the previously approved dwellings. It is quite clear that the proposed new dwellings, which include an increased number of semi-detached houses and one terrace of 3 houses, would be located virtually within the same footprint as the previously approved houses which were predominantly detached dwellings. It is considered that the proposed re-plan would not have a detrimental impact on the character and appearance of the approved development, but would enhance the visual appearance of the housing development by providing greater variety in the appearance of the houses.

## **AFFORDABLE HOUSING**

There is high demand for affordable housing for rent throughout the Arun District and there is also demand for low-cost home ownership. As of September 2020 there were 1,021 households in housing need on the Council's housing register.

The 52 affordable dwellings approved under WA/95/18/RES included the following mix:

12 x 1 bed;  
25 x 2 bed;  
13 x 3 bed; &  
2 x 4 bed.

The 52 affordable dwellings approved under WA/95/18/RES would be accommodated on Plots 6 to 10, Plots 24 - 33, Plots 59 - 67, Plots 70 - 93 and Plots 116 - 119. It is understood that none of the affordable dwellings approved under WA/95/18/RES are located within the area of the proposed re-plan; and that all

of these affordable dwellings are to be retained.

The proposed re-plan includes 9 additional affordable dwellings, which equates to 30% of the additional 30 dwelling uplift. The affordable dwellings in the re-plan comprise:

2 x 1 bed flats; and

7 x 2 bed houses.

The provision of 9 additional affordable dwellings on the site would comply with the 30% affordable housing provision (i.e. 9 of the 30 units are to be affordable dwellings) required by Policy AH SP2 of the Local Plan. All of the necessary affordable housing requirements would be secured by a new Section 106 Agreement.

The affordable housing is proposed to be pepper-potted throughout the re-plan in discrete clusters and would not be concentrated entirely in one or two locations on the site. Each of the discrete clusters are identified on Drawing No. 007 Rev. C - Affordable Housing Locations and the location of the affordable dwellings is considered to be acceptable.

The proposed development complies with Policy AH SP2 of the Local Plan in terms of the provision of affordable housing.

#### HOUSING MIX

The proposed re-plan increases the provision of 1-bed, 2-bed and 3-bed dwellings and reduces the number of 4-bed dwellings within the development. The proposed re-plan comprises an amendment to the area of land on part of the site covered by Plots 17-20, Plots 34-58, Plots 68-69, Plot 94-115 and Plots 120-147, amounting to 81 market houses which were approved under WA/95/18/RES. The proposal is to increase the number of dwellings on this part of the site from 81 houses to 111 houses, which is an increase in the provision of housing by 30 dwellings, which comprises the following mix:

35 x 2-bed;

55 x 3-bed; &

12 x 4-bed

Total: 102 market dwellings.

2 x 1-bed; &

7 x 2-bed

Total: 9 affordable dwellings.

The previously approved scheme comprised the following mix on this part of the site:

10 x 2-bed;

29 x 3-bed; &

42 x 4-bed.

Total: 81 dwellings (all of which were market houses; there were no affordable dwellings).

The provision of more 1-bed, 2-bed (an uplift in the re-plan area from 12% approved to 38% proposed) and 3-bed dwellings (an uplift in the re-plan area from 35% approved to 50% proposed) and the reduction in the number of 4-bed dwellings (from 42 x 4-bed to 12 x 4-bed) would comply with Policy H DM1 of the Local Plan and would be compliant with the Strategic Housing Market Assessment (SHMA) which requires between 10% and 15% provision of 4-bed dwellings in the SHMA update (i.e. 11% provision of 4-bed dwellings in the re-plan area). The proposed re-plan, which comprises a SHMA compliant scheme is acceptable.

#### LANDSCAPE

A considerable amount of landscaping was approved along the boundaries of the site and within the areas of public open space under WA/95/18/RES. The layout plan (Drawing No. 001 Rev. F) for the re-plan clearly shows that the landscaping that was approved under WA/95/18/RES is to be retained across the site.

The proposed re-plan would involve an intensification of residential development within the approved housing foot-print on the site. The location of the residential development within the site would not change, but the foot-print of the houses within the residential development are proposed to be amended by the re-plan. Soft landscaping plans have been submitted with the re-plan application which shows that the existing mature trees would be retained and additional tree planting is proposed to soften the street scene and further enhance the public realm. Hard landscaping plans have been submitted which identify how the proposed re-plan area would tie into the wider development in terms of surfacing. The landscaping plans are acceptable as the amount of tree planting within the re-plan area is proposed to increase, which should further enhance the visual appearance of the development.

The proposed re-plan complies with Policies LAN DM1, D DM1 and D SP1 of the Local Plan in terms of hard and soft landscaping.

## **TREES**

The Arboricultural Method Statement and Tree Protection Plan, dated 22nd May 2019, which were submitted under Condition 10 and 11 of WA/44/17/OUT have been re-submitted with the re-plan application. In addition, an Ecology and Arboricultural Summary Letter, dated September 2020 has been submitted with the re-plan application; and the Combined Tree Retention / Removal and Protection Plan has been updated to reflect the revised layout. The recommendations in the updated Combined Tree Retention / Removal and Protection Plan should be conditioned. The trees within the site that are subjected to a tree preservation order would be retained and are already protected by the provision of screen fencing.

Subject to a condition ensuring that the recommendations in the Combined Tree Retention / Removal and Protection Plan are implemented, the proposed re-plan complies with Policy ENV DM4 of the Local Plan and Policy VE3 of the Walberton NP in relation to tree protection.

## **TRANSPORT**

### **A27 Arundel Bypass:**

Highways England have announced a preferred route (the Grey Option 5BV1 route) for the A27 Arundel Bypass and the existing access to the site from Yapton Lane is located on the line of the Bypass. Whilst the preferred grey route has the potential to impact traffic assignment from the site, it is not at present a committed scheme.

Highways England is content that the original mitigation and trigger points set out in the Section 106 Agreement for WA/44/17/OUT requiring the provision of an 80 metre long right turning lane on the A27 into Yapton Lane and a developer contribution towards improvements to the Fontwell roundabout on the A27 are still appropriate for the whole site.

### **Site Access and Emergency Access**

Vehicular access to the site would be from the newly constructed junction onto Yapton Lane, which was approved under WA/44/17/OUT. The newly constructed junction on Yapton Lane would be capable of accommodating the vehicles from the 30 additional dwellings proposed in the re-plan. An emergency access onto Tye Lane is approved under WA/44/17/OUT. A separate planning application (WA/93/20/PL) is out for consultation on an alternative vehicular access off Tye Lane and an emergency services access off Avisford Park Road if the preferred route (the Grey Option 5BV1 route) for the A27 Arundel Bypass is constructed.

From the site access off Yapton Lane, a central spine road which was approved under WA/44/17/OUT and WA/95/18/RES which has been partly constructed, extends westwards through the site and it comprises a 5.5 metre wide carriageway with 2.0 metre wide footways either side. Leading off the central spine road, the secondary street has a 4.8 metre wide carriageway with 2.0 metre wide verge and private streets measuring 4.1 metres wide provide access to clusters of dwellings.

#### Trip Generation, Distribution and Assignment

A Transport Statement, dated September 2020, has been submitted with the re-plan application, which includes trip generation, distribution and assignment. The AM peak impact of the proposed residential development over and above that previously tested is 3 AM peak two-way trips, 3 PM peak two-way trips and 25 daily two-way trips. The additional trips would not require modelling or result in a severe impact on the local highway network.

#### Public Transport

The nearest bus stops are located on Yapton Lane, approximately 475 metres to the east of the centre of the site or a 6 minute walk; further stops are located 550 metres from the site at The Street, adjacent to the Holly Tree junction. The bus stops are served by two regular services, the 85/85A (Arundel, Walberton, Fontwell and Chichester) and 66 (Bognor Regis, Yapton, Walberton and Barnham) which operate Monday to Saturday. In addition to this, there are 3 school services from the bus stop at The Street which travel to Ormiston Six Villages Academy, Chichester High School and St Philip Howard School. Barnham Railway Station is located 3km to the south of the site and is accessible via bus routes 66 and 85A. The site is well located in terms of bus stops and bus routes and in relatively close proximity to the railway station in Barnham.

The proposed re-plan complies with Policy T SP1(a) of the Local Plan by providing access to public transport services for the residents of the development.

#### Footways and Cycle Provision

There is a footway link approved under WA/44/17/OUT and WA/95/19/RES from the site onto Avisford Park Road which would enable residents to walk into the village centre. A footway/cycleway link onto Tye Lane which was also approved under WA/44/17/OUT and WA/95/19/RES would enable pedestrians and cyclists to access and egress the site from the west. There is an existing off-road shared footway/cycleway that runs between Walberton and Barnham and it provides a link to Barnham Railway Station.

The approved footway and cycleway links ensure that the site is permeable and well connected to the village centre, to the surrounding villages and to the South Downs National Park. It is acknowledged that no additional footway or cycleway links are proposed as part of the re-plan, and that the re-plan relies on the approved development for connections to the surrounding area.

The approved footway/cycleway links ensure that the site is in accordance with Policy T SP1 and Policy T DM1 of the Local Plan, in terms of connectivity to the surrounding area.

#### Parking Provision

The approved scheme (WA/95/18/RES) which is currently being implemented included the provision of 507 car parking spaces comprising 455 spaces allocated for residents, 52 unallocated spaces for residents and visitors; together with cycle parking for each house and cycle stores serving the 5 apartment buildings (Blocks A-E inclusive).

The re-plan proposes a total of 224 allocated car parking spaces and 13 garages for the 111 dwellings within the application, together with 28 visitor parking spaces, which complies with the 20% provision in

the Parking Standards SPD. The re-plan includes the provision of 2 off-road car parking spaces for 2-bed and 3-bed houses and 3 off-road parking spaces for 4-bed houses, which is in accordance with the ADC Parking Standards SPD, January 2020. Garages only equate to half a parking space in the Parking Standards SPD, however this would not undermine the parking provision and the re-plan would comply with the ADC Parking Standards SPD.

Cycle parking is to be provided in garages and in sheds in accordance with the Arun Parking Standards SPD. The re-plan would therefore be in accordance with Policy T SP1(d) of the Local Plan.

#### Travel Plan

A Travel Plan has been submitted with the re-plan application which includes a number of recommendations comprising the provision of a co-ordinator who will be tasked with reducing the number of vehicle trips generated by the site over a 12 hour period (Wednesday 7am to 7pm) by 10% and increasing the number of public transport trips generated over a 12 hour period by 5%. Residential travel packs would be provided and issued to each household.

The Travel Plan is comprehensive and a condition should be imposed ensuring that the measures set out in the Travel Plan are implemented.

Subject to a condition ensuring that the measures set out in the Travel Plan are implemented, the proposed re-plan would be in accordance with Policy T SP1(e) of the Local Plan.

#### ARCHAEOLOGY

All the archaeology matters on the site have been dealt with under WA/32/19/DOC. The approved documents comprising the Archaeological Evaluation Report, March 2019 and the Written Scheme of Investigation for Archaeological Excavation, March 2019, have been re-submitted with this re-plan application. Archaeological excavations have taken place on site and the ADC Archaeological Advisor has confirmed that the archaeological investigation of this site is complete and that no further intervention is required.

#### IMPACT ON WALBERTON CONSERVATION AREA AND THE SETTING OF LISTED BUILDINGS

Paragraph 190 of the NPPF (February 2019) requires great weight to be given to the conservation of heritage assets. Any harm resulting from the proposed development should be weighed against the public benefit in accordance with paragraph 196 of the NPPF (February 2019). Paragraph 196 of the NPPF says that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum value".

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 says: "In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"

There are 3 types of designated heritage assets which are located adjacent to this site;

- Avisford Park Hotel (Grade II),
- The Street - dwellings to the Street (both Grade II and locally listed) and.
- Walberton Conservation Area.

The outline approval established that the residential development on the site would not result in harm to the designated heritage assets or their settings; WA/44/17/OUT was assessed in relation to parameters set out in the Outline Design and Access Statement (June 2017) and the Heritage Assessment (June 2017). The reserved matters layout was consistent with the parameter plan with the layout continuing to

provide the landscaped areas/buffers to the edges of the site and notably the northern and south western boundaries in relation to the heritage assets. The proposed re-plan does not propose development any closer or taller than shown on the indicative plans forming part of the Outline Design and Access Statement or the approved parameter plan. On this basis, the development is consistent with the level of impact on the significance of these heritage assets as assessed as part of the WA/44/17/OUT and WA/95/18/RES which concluded there was no direct harm to these assets.

Avisford Park Hotel is a Grade II listed building to the north of the application site. The ground level falls away gently to the south of the listed building, and various ancillary structures, as well as mature trees and shrubbery, exist between the heritage asset and the site. The proposed dwellings are of a smaller scale in terms of height than the heritage asset and have been designed to reflect the local vernacular. The degree of separation to the asset from the site along with the 2 storey scale, along with the approved landscaping would continue to provide the visual separation of this site to the Listed Building, as envisaged under WA/44/17/OUT and WA/95/18/RES. These intervening elements, together with the landscaped buffer to the northern edge of the approved residential development would effectively obstruct direct views between the existing and new built form. It is considered that the listed building would remain pre-eminent in the immediate vicinity and continue to sit acceptably in its existing landscaped setting. As a consequence, the development in terms of its design and layout would continue to maintain the same level of no direct harm as established at the outline stage and the reserved matters stage on the setting of this heritage asset.

The Grade II listed buildings / locally listed buildings which front on to The Street in Walberton, form part of the character of the Conservation Area (when viewed from the road). Their significance, therefore, partly derives from the village context in which they sit; i.e. nestled around similar properties of a small scale, constructed from traditional materials. The layout of the site reflects the approved parameters and respects the landscaped buffer to this part of the village. The scale of the dwellings is limited to a maximum of 2.5 storeys reflective of the village. Taking these factors into consideration, as considered under WA/44/17/OUT and WA/95/18/RES, the development would continue to have 'a negligible impact on the special qualities of a number of Grade II listed buildings and local listed buildings' fronting The Street 'due to distance and intervening buildings.

Only a small part of the southern boundary of the application site abuts the Walberton Village Conservation Area; for the most part, it is well separated by intervening built form. Walberton Conservation Area was designated in 1990 and comprises the historic core of the village. The application site is sufficiently separated from Walberton Conservation Area and the overall design of the houses reflects the local vernacular being two to 2.5 stories in height and constructed from brick and flint with a mixture of clay tiles and slate roofs. The presence of mature trees and shrubbery, along with approved vegetation would mean that the approved landscaping would largely screen the development from the Conservation Area. This is in accordance with the details shown on the approved parameter plan and the indicative details shown in the Outline Design and Access Statement.

Having had regard for the principles established under WA/44/17/OUT and WA/95/18/RES, the consultation response from the ADC Conservation Officer summarised above, together with the layout of the re-plan and the location of the Walberton Conservation Area, the design of the buildings and their proximity; the proposed re-plan would continue to have a negligible / no direct harm to the significance of the designated heritage assets than that established in the outline planning permission and found to be acceptable, in accordance with paragraph 196 of the NPPF.

The proposed re-plan is acceptable and complies with Policy HER DM1 of the Local Plan in terms of impact on listed buildings and Policy HER DM3 of the Local Plan in terms of impact on the Conservation Area; Policy VE4 of the Walberton NP, and the NPPF in that it protects the setting of Listed Buildings and Walberton Conservation Area.

## BIODIVERSITY

The Ecological Mitigation and Enhancement Plan, details regarding badgers and the ecological enhancements have been discharged under WA/99/18/DOC. An Arboricultural and Ecology Note has been submitted with the re-plan application which sets out the acceptability of the proposed re-plan following the approval of WA/99/18/DOC.

An updated Ecological Mitigation and Enhancement Plan, dated September 2020, has been submitted with the re-plan, and it includes a new layout plan (Drawing No. 001 Rev. F), showing the proposed locations of additional ecological enhancements such as bat and bird boxes, log piles and invertebrate boxes. The ADC Ecological Advisor is satisfied that consultation responses to the previous permissions are still applicable and that the information provided in the updated Ecological Mitigation and Enhancement Plan, which includes biodiversity net gains is suitable and should be conditioned.

Subject to a condition ensuring that the biodiversity net gains are implemented, the proposed re-plan accords with Policy ENV DM5 of the Local Plan in relation to the impact on protected species and the potential for the scheme to protect existing habitats.

## RESIDENTIAL AMENITY

The siting of the houses in the re-plan as indicated on the site layout plan (Drawing No. 001 Rev. F) would ensure that there would be no materially adverse overlooking or overbearing impacts on the existing houses in the surrounding roads in Walberton due to the location of the approved and proposed residential development in the middle of the site, in accordance with Policy D DM1(3) of the Local Plan.

## EXTERNAL SPACE STANDARDS

The layout plan (Drawing No. 001 Rev. F) for the re-plan shows all houses with rear gardens that measure at least 10.5 metres in length, which is acceptable to ensure adequate amenity space is provided and it is in accordance with the adopted Arun Design Guide. The layout for the re-plan includes 20 metre back to back stand-off distances and 11 metre side on back distances, which comply with the adopted Arun Design Guide and are acceptable.

## INTERNAL SPACE STANDARDS

The floor plans of each dwelling where it specifies the number of bedrooms, the occupancy and the square metres of floor space have been cross referenced with the Nationally Described Space Standard (NDSS) table (Table 1). The minimum gross internal floor areas of all of the houses in the re-plan comply with Policy D DM2 and meet the NDSS requirements.

## NOISE QUALITY

A Noise Assessment was approved under WA/11/19/DOC. A new Noise Assessment has been submitted with the re-plan application which demonstrates the acceptability of the proposed development. The new Noise Assessment recommends that appropriate glazing be installed in the dwellings. Acoustic trickle ventilation would be provided for the houses fronting onto the school grounds to ventilate dwellings during the daytime in lieu of partially open windows. In addition, it is proposed to screen the gardens facing the school with close boarded fencing and/or walls which would reduce sound levels by around 5dBA to 10 dBA. Environmental Health have requested that the mitigation measures recommended in the new Noise Assessment should be conditioned.

Subject to a condition ensuring that the measures set out in the new Noise Assessment are implemented, the proposed re-plan would be in accordance with Policy QE DM1 of the Local Plan and the residents would not be adversely affected by noise.

## AIR QUALITY

The proposed re-plan is not located in an Air Quality Management Area. However, an Air Quality Assessment was submitted and approved under WA/11/19/DOC.

An Air Quality Assessment Addendum, dated August 2020, has been submitted with the re-plan application which concludes that there is some potential for air quality impacts during the construction phases, but with appropriate management of the construction site, the impacts would be negligible. Environmental Health have requested that the mitigation measures recommended in the air quality report should be conditioned.

Electric vehicle (EV) charging points are proposed in accordance with the ADC Parking Standards SPD with all spaces for houses with a driveway and garage to include active charging facilities and 20% of the remaining spaces in the re-plan to include charging points. Approximately 57% of the dwellings in the re-plan would have access to at least one parking space with an EV charging point.

Subject to a condition ensuring that the measures set out in the new Air Quality Assessment Addendum are implemented and subject to a compliance condition for the EV charging points, the proposed re-plan would be in accordance with Policy QE DM3 of the Local Plan, in terms of air quality.

#### **CONTAMINATED LAND**

As the site constitutes part of an implemented housing development site, there is a low risk from contamination. It is appropriate to impose a condition on the re-plan similarly worded to Condition 22 which was imposed on WA/44/17/OUT. Subject to a contaminated land condition, the proposed re-plan would be in accordance with Policy QE DM4 of the Local Plan.

#### **SURFACE WATER DRAINAGE**

A Flood Risk Assessment (FRA) Addendum and Surface Water Drainage Strategy has been submitted with the re-plan application to update the previous FRA, to include additional dwellings. The FRA Addendum confirms that the site is located in Flood Zone 1 (i.e. low probability of flooding); and it deals with matters required to be discharged in relation to surface water drainage, drainage calculations and maintenance and management plan. The proposed re-plan would increase the hardstanding area within the development to 5.03 hectares (45% impermeable). The proposal is to infiltrate surface water run-off from the site to the 2 infiltration basins in the southern part of the site.

As this is a new planning application for residential development on part of the site, and to overcome the holding objection from the ADC Engineers regarding the submission of further details on the cross sections of the attenuation basins, the permeable paving finish and formation levels, information to verify flow exceedance routes, formation levels on permeable paving, and a manhole schedule, it is considered necessary and appropriate to impose surface water conditions.

Subject to surface water drainage conditions, the proposed re-plan would be in accordance with Policy W DM2 of the Local Plan and Policy VE7 of the Walberton NP.

#### **FOUL DRAINAGE**

A Foul Drainage Strategy has been submitted with the re-plan application which proposes that the foul water from the houses on the site would be discharged to the public foul water sewer, with 2 connection points, which is considered to be acceptable. Due to surface water inundation in the Lidsey Catchment, Southern Water has requested conditions regarding the phased occupation of the development, and the submission of the details of the proposed means of foul and surface water sewerage disposal. Subject to conditions, the proposed re-plan would be in accordance with Policy W DM1 of the Local Plan, as the site is within the Lidsey Wastewater Treatment Works Catchment Area.

#### **CLIMATE CHANGE**

An Energy Statement has been submitted with the re-plan application. A previous Energy Statement was approved under WA/24/19/DOC and the new Energy Statement follows the same methodology as that previously agreed, utilising a fabric first approach to sustainable construction, and it would result in a 10% reduction in energy demand.

The proposed east/west orientation of 28 of the houses (i.e. Plots 7, 15, 16, 17, 18, 19, 31, 32, 33, 34, 43, 44, 45, 46, 51, 52, 53, 54, 55, 56, 57, 58, 59, 63, 64, 91, 100 and 105) would ensure maximum solar gain and would comply with Policy ECC SP1 of the Local Plan. The north/south orientation of the remaining houses in the re-plan would not ensure maximum solar gain in accordance with Policy ECC SP1 of the Local Plan. The majority of dwellings (i.e. 83 houses) are orientated north/south and therefore, on balance the layout makes all reasonable endeavours to achieve maximum solar gain.

#### WHAT IS THE PROCESS/MECHANISM FOR THE DELIVERY OF ON-SITE AND OFF-SITE INFRASTRUCTURE?

The proposed re-plan relates to a site with an existing outline permission that was granted prior to the introduction of the CIL charge in Arun District. However, the S106 and CIL regime are two separate processes.

The proposed re-plan would result in the construction of an additional 30 dwellings including 9 affordable units, which would support the local community by providing a mix of bedrooms and affordable homes to meet future needs. A new S106 Agreement would be required to deal with the provision of the 9 additional affordable houses within the re-plan; and the developer has agreed to this.

In terms of other on-site infrastructure, the proposed re-plan is relying on the wider site to deliver two LEAPS, two LAPS, two tennis courts - the two tennis courts are in place of the land for a Multi-Use Games Area (MUGA), allotments and a community orchard. The total area of open space approved under reserved matters amounted to 4.4ha (44,712 square metres) which comprises an over-provision of public open space on the site. The provision of an additional 30 dwellings at the site would result in an increased open space requirement of 2,112 square metres of public open space and 363 square metres of play space. As the approved scheme is already over-providing on open space and play space, the proposed re-plan is relying on the wider site to deliver the open space and the play space. The re-plan is also relying on the approved formal hard surfaced paths providing connectivity through the site and to the main features such as the recreational facilities, together with pedestrian and cycle links to the village; and the informal paths through the public open spaces. The re-plan is relying on on-site infrastructure provided by the approved development, and the re-plan is not meeting its own infrastructure requirements, which is contrary to Policy OSR DM1 of the Local Plan.

In terms of off-site infrastructure, the re-plan would be required to make a CIL contribution on all 111 proposed dwellings. As such, there would be a benefit to the local community as the site is located in Zone 2 of the Arun CIL Charging Schedule Zone Maps and would therefore be liable to pay CIL at £70 per square metres of net additional floorspace.

The S106 Agreement imposed on the outline planning permission secured a number of financial contributions, totalling £2,408,489.62. The contributions comprise the following:

Wider infrastructure items (calculated on a pro-rata basis):

- Police Contribution - £22,709.05
- ADC Sport and Leisure Contributions - £77,743.00
- ADC Community Facilities - £32,400.03
- WSCC Primary School Contribution - £662,007.36
- WSCC Secondary School Contribution - £712,463.01
- WSCC 6th Form Contribution - £166,905.69

- WSCC Libraries - £55,961.13
- WSCC Fire - £5,549.72
- ADC/WSCC Legal Fees - £4,250.75

Site specific infrastructure projects (fixed cost items):

- Transport Contribution - £180,000.00 (improvements to the A27/Yapton Lane)
- Highways England Contribution - £400,000.00 (A27/A29/Arundel Road junction improvements)
- WSCC Highways Contributions - £88,499.95

Non financial contributions comprise Affordable Housing:

- Affordable Rented: 26.
- Intermediate Housing: 26.

The triggers in the existing S106 Agreement for the payment of the Police Contribution, the Sport and Leisure Contribution, and the Community Facilities Contribution are the first 50% on occupation of the first market housing unit to be occupied, and the remaining 50% on occupation of the 75th market housing unit to be occupied. The triggers for the payment of the Primary, Secondary and Sixth Form Education Contributions, the Library Contribution and the Fire and Rescue Service Contribution are the first 50% on occupation of the first dwelling to be occupied, and the remaining 50% on occupation of the 50th dwelling to be occupied. The trigger for the payment of the WSCC Highways Contributions is on occupation of the first dwelling. The provision of an 80 metre long right turning lane on the A27 into Yapton Lane and a developer contribution towards improvements to the Fontwell roundabout on the A27 are still appropriate for the whole site. The trigger for the delivery of Highways England's works on the A27 is prior to the occupation of the 90th market housing unit. The triggers can only apply to the permission granted subject to the S106 Agreement. The granting of permission for the re-plan would prejudice the delivery of the highway works on the A27, which is on completion of the 90th market dwelling.

The Local Planning Authority would not be able to confirm which planning permission related to which part of the site and therefore it would be very difficult to confirm whether triggers on the S106 had been met. If 81 units are moved from the OUT/RES applications, then those permissions would only deliver 95 units. Triggers would not be reached as a result, which would prejudice the delivery of infrastructure. The triggers for the second contributions for the Police, Sport and Leisure and the Community Facilities are the occupation of the 75th market dwelling, and these triggers are unlikely to be reached. The only way to resolve this is to submit one planning application for 205 dwellings that would all be subject to CIL.

The unintended consequence of the re-plan application is that with respect to the 81 dwellings which overlap with the outline permission, there could be double infrastructure payments - the payment of both the contributions in relation to the entire outline permission (175 dwellings) in addition to CIL in relation to the re-plan scheme (111 dwellings). If the situation was left unchecked there would be an artificially inflated infrastructure liability across the 205 dwelling development.

A Parity Note was submitted on 19th March 2021 in which the applicant argues that three forms of contributions be made:

- 1) The site-specific fixed infrastructure items as per the original S106 Agreement.
- 2) The pro-rata items from the S106 costs for the 94 units unaffected by the re-plan remain.
- 3) CIL is charged on the new 111 dwellings covered under the re-plan (replacing the S106 pro rata items for the 81 dwellings previously proposed).

The applicant has proposed that the S106 attached to the outline is amended but they have not submitted any application to do so and there is no agreement. The LPA does not agree to a Deed of Variation to account for the second application, as there is no certainty that the second planning

permission would be built. If there is no certainty the developer would build their development they would not be meeting their infrastructure requirements. Consequently, there is no Deed of Variation in place for the proposed changes to the existing S106 Agreement. In the absence of any proposal/agreement to do this the application should be refused.

In summary, the proposed re-plan would not be delivering its own on-site infrastructure requirements, but it would be relying on the on-site infrastructure provided by the approved development including the provision of public open space on the wider site, measuring 4.4ha (44,712 square metres) comprising two LEAPS, two LAPS, two tennis courts, allotments and a community orchard, and the approved play space. The granting of permission for the re-plan would prejudice the delivery of the off-site highway improvements on the A27, and the delivery of Policy and Fire and Rescue infrastructure improvements which are necessary to accommodate the approved outline scheme on this site. Consequently, the proposed re-plan would be contrary to Policy INF SP1, Policy T SP1 and Policy OSR DM1 of the Local Plan, as the re-plan would not meet the needs of the occupiers and users of the development and the existing community. The only way to resolve this is to submit one planning application for 205 dwellings that would all be subject to CIL.

#### IS IT LEGALLY POSSIBLE TO IMPLEMENT THE PERMISSION FOR THE RE-PLAN?

Is it legally possible to implement the permission to be granted pursuant to the new (yet to be granted) permission in combination with the outline consent, in the context of the "Pilkington doctrine"?

The question is essentially one of whether the new permission would render the scheme as a whole (i.e. the combined development to be carried out pursuant to both the already granted outline consent (and reserved matters approval) and the new permission) unacceptable in planning terms.

The original scheme was granted under an outline planning permission and it was therefore envisaged that the details of the relevant phases of the development would be confirmed by reserved matters approvals. The developer is arguing that the new permission for the re-plan would effectively serve as a 'drop in' permission for a specific phase of the overall scheme as originally granted at outline (in much the same way a reserved matters approval would function), albeit with a comparatively modest uplift in the number of overall dwellings; and that the 'drop-in' approach is well used in phased / outline developments.

However, in *Hillside Parks Ltd v Snowdonia National Park Authority* (2020) the Court of Appeal held that implementation of a masterplan pursuant to a 1967 masterplan was no longer possible due to developments carried out under later permissions. The Court has confirmed that planning permissions should be construed holistically, that it is unlikely that modern planning permissions could be interpreted as a "series of independent acts", and that therefore caution should be exercised with overlapping planning permissions. This case confirms the general doctrine established by *Pilkington v Secretary of State for the Environment and Others* (1973) and subsequent cases (the "Pilkington doctrine"), namely that, whilst a landowner can make multiple planning applications for the same piece of land which may be inconsistent with each other, once one of those permissions has been implemented, and development has been carried out which makes it impossible to achieve development under another permission over the same piece of land, that other permission is no longer valid. The Court of Appeal re-asserted that a developer cannot lawfully "pick and choose" different parts of a development to be implemented.

It is acknowledged that a site can have multiple planning permissions, therefore the LPA needs to determine this application for the re-plan on its merits, i.e. determining what we have in front of us.

The LPA acknowledges that there is a difference between granting planning permission and the implementation of the permission. The LPA could not refuse the application on the grounds that the permission could not be implemented. Implementation is a separate issue and enforcement is

discretionary. The developer cannot implement both permissions (i.e. the outline/reserved matters scheme for 175 dwellings and the re-plan for 111 dwellings).

## SUMMARY

In terms of the key issues, the site could accommodate an additional 30 dwellings without having a detrimental impact on the visual appearance of the development at "Avisford Grange". The proposed re-plan includes the provision of 9 additional affordable dwellings, together with an increase in the number of 2 and 3 bed dwellings, a decrease in the number of 4 bed dwellings and the increase in semi-detached houses, all of which is acceptable as it would increase the housing mix and would ensure that the development is SHMA compliant. The proposed re-plan would include the provision of additional street trees which would further enhance the public realm at "Avisford Grange", which is considered to be acceptable.

The proposed re-plan would not be delivering its own on-site infrastructure requirements, but it would be relying on the on-site infrastructure provided by the approved development including the public open space on the wider site, measuring 4.4ha (44,712 square metres) comprising two LEAPS, two LAPS, two tennis courts, allotments and a community orchard, and the approved play space. The re-plan would not stand up on its own and meet the needs of the occupiers and users of the development and the existing community. Similarly, the proposed reduction in financial contributions is unacceptable as the full contribution in the S106 Agreement is required for much needed off-site infrastructure including highway works on the A27/Fontwell roundabout and the A27/Yapton Lane junction, Police and Fire and Rescue Infrastructure. The proposed development would be contrary to Policy INF SP1, Policy T SP1 and Policy OSR DM1 of the Local Plan, as it would not be delivering its own on-site and off-site infrastructure requirements.

## RECOMMENDATION

It is recommended that this application is refused for the following reasons.

### HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

## SECTION 106 DETAILS

The Section 106 Agreement which accompanied the outline planning permission for the wider site included the provision of affordable housing and land for a Multi Use Games Area (MUGA).

The revised mix of affordable housing as set out in the Affordable Housing Statement, 2018 proposed a change from one 1 bedroom flat to an additional 2 bedroom flat (affordable rented) and a change from a 2 bedroom flat to a 2 bedroom house (shared ownership). The Section 106 Agreement allowed for the affordable housing mix to be agreed through the reserved matters (WA/95/18/RES).

A Deed of Variation was signed and executed when the reserved matters were approved to amend the Section 106 Agreement to remove the reference to the provision of land for a MUGA and replace it with the provision of land for Tennis Courts, together with the surfacing and laying out of the Tennis Courts and the provision of fencing and gates.

A separate Section 106 Agreement would be required for the provision of the 9 additional affordable houses as part of this re-plan application.

## CIL DETAILS

This development is CIL Liable therefore developer contributions towards infrastructure would be required (dependant on any exemptions or relief that may apply). The re-plan would be required to make a CIL contribution on all 111 proposed dwellings.

## RECOMMENDATION

### REFUSE

- 1 The proposed re-plan which includes the provision of an additional 30 dwellings is not delivering its own on-site infrastructure requirements but it would be relying on the on-site infrastructure provided by the approved development including public open space and play space. Consequently, the proposed re-plan would be contrary to Policy INF SP1 and Policy OSR DM1 of the Local Plan and the National Planning Policy Framework as it would not meet the needs of occupiers and users of the development.
- 2 The granting of permission for the proposed re-plan would prejudice the delivery of the highway improvements and the respective contributions for the police, fire and rescue service, education, libraries, public health, sport and leisure set out in the existing S106 Agreement which should be retained in full as they are required for much needed off-site infrastructure to accommodate the approved development. The proposed re-plan would be contrary to Policy INF SP1 and Policy T SP1 of the Local Plan and the National Planning Policy Framework as the re-plan would not meet the needs of occupiers and users of the development and the existing community.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a

revised development.