

Recommendation Report for Planning Permission

|           |                                                                                                                                                                                                                                                                                             |
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| REF NO:   | WA/98/21/PL                                                                                                                                                                                                                                                                                 |
| LOCATION: | Brookview Nursery<br>Eastergate Lane<br>Walberton<br>BN18 0BA                                                                                                                                                                                                                               |
| PROPOSAL: | Removal of outdoor storage, including caravan and polytunnels and the erection of 7 No. units comprising of 12 offices and 3 workshops, associated parking, drainage and turning spaces (resubmission following WA/58/21/PL). This site is in CIL Zone 3 (Zero Rated) as other development. |

SITE AND SURROUNDINGS

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION | <p>It is proposed to redevelop the site with 7 single storey buildings to comprise of 12 offices and 3 commercial units in the class E(g) use with associated parking, attenuation ponds and turning spaces. The four type A Buildings are an L shape with a length of 22.2m and a width of 14m on the longest side. They measure 6m to the ridge and each one comprises of three small office spaces (with own WC). The three type B buildings are rectangular and measure 20m by 8m and 7.2m to the ridge. They will provide a workshop space, small office and a WC.</p> <p>Materials are to be brick plinths, timber weatherboard cladding and corrugated metal roofs. The two small single-storey office buildings at the northern end of the site are retained. The access will be re-configured and upgraded as part of these proposals to 5.5m wide with 6m kerb radii. The plans indicate hedges are to be largely retained and enhanced and a surface water attenuation pond will be added in the south eastern corner.</p> |
| SITE AREA                  | 0.8 hectares.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| TOPOGRAPHY                 | Predominantly flat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| TREES                      | There is significant tree planting on the west, south and east boundaries in the southern half of the site. Some of these are significant (southern and western boundaries) and visible from outside of the site (such as from Barnham Lane & its segregated shared cycle/foot path to the south or from adjoining land to the east & west).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| BOUNDARY TREATMENT         | Fencing/hedging to the site boundaries. Brookview House has a 1.8m high fence around it with similar extending east across the front of the site (albeit with an access gate).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| SITE CHARACTERISTICS       | Horticultural nursery presently occupied by "Arun Paving and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

CHARACTER OF LOCALITY

Precast". Large extent of hardstanding with several buildings, polytunnel type structures and storage containers. Caravan at the southern end beyond a raised grassed mound.

Semi-rural. Mix of residential properties with large gardens and commercial buildings/horticultural enterprises. The nearest residential properties are Ashogle and Brookview House to the north (both two-storey). On the west and east sides are horticultural nursery sites but also adjoining the east boundary is a two storey office building. Agricultural land to the south.

RELEVANT SITE HISTORY

|              |                                                                                                                                                                                                                                                                       |                                  |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| WA/58/21/PL  | The removal of outdoor storage, including caravan & polytunnels, the erection of 7 workshop units comprising of 12 offices & 3 commercial units, associated parking, drainage and turning spaces. This application is in CIL Zone 3 (Zero Rated) as other development | Withdrawn<br>09-09-21            |
| WA/62/12/CLE | Application for a Lawful Development for an existing aggregate business                                                                                                                                                                                               | Approve<br>15-02-13              |
| WA/61/12/    | Change of use of redundant small horticultural building (Sui Generis) to storage of upholstery materials (B8 storage or distribution)                                                                                                                                 | ApproveConditionally<br>17-01-13 |

WA/58/21/PL was to be refused on the grounds of insufficient information relating to biodiversity and trees but the applicant withdrew it. This application originally proposed class E(g) and B8 uses but the B8 element was removed due to conflict with policy CL2 of the Neighbourhood Plan. The two other applications listed refer to the current permitted uses.

REPRESENTATIONS

Walberton Parish Council - objection. The Transport Statement (TS) still refers to previously proposed B8 units; concerns with how the traffic data has been compiled and when surveys were done; increased risk of surface water flooding, impact on the Neighbourhood Plan designated biodiversity corridor; and risk of future conversion/adaptation to residential.

COMMENTS ON REPRESENTATIONS RECEIVED:

The retention of references to the B8 units in the TS is unfortunate but as the impact on the highway would be greater with a B8 use due to large vehicle movements, the TS remains valid. WSCC Highways raised no concerns with the traffic figures or when they were collected. Any future residential conversion or redevelopment would require a separate planning application and this permission would not set any kind of precedent to assist with such an application. The other comments are noted and will be

addressed in the conclusions.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND: make no comments.

SOUTHERN WATER: no objection subject to a condition to phase occupation of the site to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development. Also request an informative to secure a connection to the sewer system.

WSCC HIGHWAYS: refer to no objection subject to conditions to secure access alterations and a construction management plan on WA/58/21/PL to which was no objection subject to conditions to secure the access alterations and a construction management plan. Previous comments were:

- The works for access would be subject to a Section 278 Agreement;
- The Transport Statement includes a speed survey which includes average and 85th percentile road speeds along Eastergate Lane (38.7mph Eastbound, 38.1mph Westbound);
- Visibility in line with Design Manual for Roads & Bridges (DMRB) can be achieved to the west at 95 metres and 66m to the east. The latter is below the requirements of DMRB but within Manual for Streets 2 guidelines. This is acceptable on the basis that this is an existing access to an existing site;
- The proposals are likely to see a less intensive usage over the existing use and according to the most recently available accident records the existing access has been operating safely;
- A Stage 1 Road Safety Audit (RSA) has been undertaken and a Designers Response provided;
- All matters raised in the RSA have been addressed in accordance with the Auditor recommendations and there are no outstanding matters raised through the audit process;
- Traffic flow information has been provided based upon the use of the TRICS database;
- Using this data, it is evident that the proposed usage including workshop units & storage would generate fewer vehicle trips compared with the previous usage; and
- The proposals provide for up to 42 vehicular spaces including 3 disabled parking bays. There is also turning space for larger vehicles such as a refuse collection vehicle and a fire tender.

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

ADC ENVIRONMENTAL HEALTH: no objection - request consideration be given to air quality, that electric vehicle charge points be provided, that a construction management plan be provided, that construction hours be controlled, that the use be restricted to E(g) and that measures be taken to protect against unknown contamination.

ADC DRAINAGE ENGINEERS: no objection subject to conditions and make the following comments:

- Despite it being likely due to clay soils & area knowledge, that infiltration will not be viable, site investigations will still be required to determine groundwater levels & infiltration rates;
- The proposal to collect runoff via permeable paving into attenuation ponds and discharge at a restricted rate to the watercourse on the eastern & southern boundaries would be supported if infiltration is proven not to be viable;
- There is potential for the surface water drainage on site to be improved due to improved discharge rates and as such flood risk decreased off site;
- The flooding on Eastergate Lane is understood to be a result of runoff from the land to the North (the

application site currently drains to the south);

- Mitigation measures could be included to reduce risk at the access but this would be dealt with by condition and does not warrant an objection; and
- All buildings, structures and fences are to be kept a minimum of 3m from the watercourse to ensure access for maintenance.

ADC ECONOMIC DEVELOPMENT: no response but supported the previous application with the following comments: Arun's business population continues to increase year on year and good quality commercial units are at a premium. Arun aims to encourage a range of different sized and flexible, quality business premises that can accommodate the growing business community and prevent the high level of out-commuting that Arun currently experiences.

ADC TREE OFFICER: Objects due to the inconsistencies in the application and the potential for harm to important trees. Comment that:

- There is an inconsistency between the Tree Retention & Protection Plan (TRPP) & the Tree Report. In addition the Tree Report refers to the tree locations being indicative and not based on a topographical survey - this is unacceptable and does not meet the requirements of BS5837:2012;
- The long-term retention (and succession) of existing tree on the southern and western boundaries are desirable from both a visual amenity and ecological perspective;
- Current site activity/buildings are largely outside of the Root Protection Areas (RPAs) of important trees and whilst much of the site is hardstanding, the southern part beginning level with T09 is currently grassed;
- The proposal promotes substantial and potentially damaging activity in the RPAs of the vast majority of retained trees;
- Also concerned with the potential impacts of new underground drainage systems and particularly the proposed attenuation pond within the RPA of T14;
- The general 'principle of development' is achievable without undue detriment to retained trees, but it requires a more sympathetic and less intrusive layout. Suggests the applicant be encouraged to draw buildings away from South and West boundaries, exploiting the centre of the site instead; and
- The vulnerability of trees and hedges to damage during the demolition & construction phase and the potential for longer-term pressures from increased ground compaction over tree root systems and a 'pressure to prune' - collectively present a risk to the enduring character of the area.

ADC LANDSCAPE OFFICER: no objection subject to a landscaping condition. State the potential impact of the proposals would appear to fit within the surrounds of the existing buildings with careful consideration given to the proposed building height; and that a detailed landscape proposal would be required to ensure the proposals blend into the surrounding environment in this location.

COUNCILS ARCHAEOLOGIST: no objection subject to a condition to require trial trenching due to the site being in a general location that has been shown to have the potential to contain archaeological interest meriting preservation. State that the scope of the evaluation should reflect the degree to which deposits of interest are likely to have survived the impact of previous uses of the site and the likely impact on them of the proposed redevelopment of it.

COUNCILS ECOLOGIST: no objection subject to conditions to secure the protection/retention & enhancement of hedge, reptile mitigations/enhancements, dormice mitigations/enhancements, badger mitigation, bat friendly lighting and a bird box.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted unless discussed below.

ADC DRAINAGE ENGINEERS: According to Council records, there are no drainage ditches to the eastern boundary, only the western and southern boundaries and so this is assumed to be an error in the comments. The layout ensures sufficient easements to these two watercourses.

## POLICY CONTEXT

Designations applicable to site:

Outside the Built-Up Area Boundary (BUAB);  
 Class C Road;  
 Within 12km of the Singleton & Cocking Tunnels Special Area of Conservation;  
 Mineral Consultation Area (Sharp Sand & Gravel);  
 Lidsey Treatment Catchment Area;  
 Current/Future Flood Zone 1; and  
 Surface Water Flooding Area (Eastergate Lane & western site boundary).

## DEVELOPMENT PLAN POLICIES

### Arun Local Plan 2011 - 2031:

|           |                                                 |
|-----------|-------------------------------------------------|
| CSP1      | C SP1 Countryside                               |
| DDM1      | D DM1 Aspects of form and design quality        |
| DSP1      | D SP1 Design                                    |
| ECCSP1    | ECC SP1 Adapting to Climate Change              |
| ECCSP2    | ECC SP2 Energy and climate change mitigation    |
| EMPDM1    | EMP DM1 Employment Land: Development Management |
| ENVDM4    | ENV DM4 Protection of trees                     |
| ENVDM5    | ENV DM5 Development and biodiversity            |
| LANDM1    | LAN DM1 Protection of landscape character       |
| QEDM1     | QE DM1 Noise Pollution                          |
| QEDM2     | QE DM2 Light pollution                          |
| QEDM3     | QE DM3 Air Pollution                            |
| QESP1     | QE SP1 Quality of the Environment               |
| SDSP1     | SD SP1 Sustainable Development                  |
| SKILLSSP1 | SKILLS SP1 Employment and Skills                |
| TSP1      | T SP1 Transport and Development                 |
| WDM3      | W DM3 Sustainable Urban Drainage Systems        |

### Joint Minerals Local Plan 2018:

|                                                                    |                                            |
|--------------------------------------------------------------------|--------------------------------------------|
|                                                                    | Joint West Sussex M9 Safeguarding Minerals |
| <u>Walberton Neighbourhood Plan Policy 2019-2031</u><br><u>VE3</u> | Protection of Trees and Hedgerows          |
| Walberton Neighbourhood Plan Policy 2019-2031<br>VE7               | Surface Water Management                   |
| Walberton Neighbourhood Plan Policy 2019-2031<br>VE8               | 'Unlit village' status                     |

|                                               |                          |
|-----------------------------------------------|--------------------------|
| Walberton Neighbourhood Plan Policy 2019-2031 | 7 Biodiversity Corridors |
| VE10                                          |                          |
| Walberton Neighbourhood Plan Policy 2019-2031 | Businesses               |
| CL1                                           |                          |
| Walberton Neighbourhood Plan Policy 2019-2031 | Traffic Management       |
| GA5                                           |                          |
| Walberton Neighbourhood Plan Policy 2019-2031 | Design Guidance          |
| HP13                                          |                          |

## 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 revised Walberton Neighbourhood Development Plan was made on 14/07/21 and its policies are referred to in this report.

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal complies with the development plan due to it meeting the criteria for economic development outside the Built Up Area Boundary and resulting in no harm to residential amenity, air quality or drainage. However, there is also conflict in respect of mineral safeguarding, harm to important trees (and by association to landscape & character) and to biodiversity.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
  - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
  - (b) any local finance considerations, so far as material to the application, and
  - (c) any other material considerations.

## OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

## CONCLUSIONS

### PRINCIPLE:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP"), the Walberton Neighbourhood Development Plan adopted in July 2021 ("WNDP") and the West Sussex Waste and Minerals Plans.

However, section 38 (5) of the Planning and Compulsory Purchase Act 2004 states: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Any conflict between the ALP and the WNDP should therefore be resolved in favour of the latter.

ALP policy C SP1 states development in the countryside outside the BUAB will be permitted if it is in accordance with other policies in the Plan which refer to a specific use or type of development. Policy EMP DM1 (1) states that existing employment sites and premises will be protected and that re-development, upgrading or modernisation of existing floor space will be supported. Furthermore, EMP DM1 (6) states that planning permission will be granted on sites outside the built-up area, provided that it is either an extension of an existing employment site or if a new site, that no acceptable alternative can be identified within existing permitted/allocated sites or within/through the redevelopment of existing commercial premises. This is an existing site and it is not proposed to extend it.

The proposal complies with most of the other criteria in policy EMP DM1 (6) because the new use would generate less transport movements & there is no objection from the Highway Authority; the design & layout is appropriate; this is an existing employment site (but it is also possible to cycle to the site or take a bus to Walberton and then walk to access the site); the access & parking arrangements are in accordance with policy; there will be no harm to adjacent residential properties; and crime prevention measures can be incorporated. However, the proposal will result in harm to important trees and by association potentially to key wildlife species.

WNDP policy CL1 states proposals to upgrade or extend existing employment sites will be supported provided that the impact on the amenities of surrounding properties is acceptable. This report demonstrates that there will be no harm to the amenities of surrounding land users.

ALP Policy SKILLS SP1 requires the submission of an Employment & Skills Plan for the construction phases of commercial schemes of more than 1000m<sup>2</sup>. The proposal is for a total of 1054m<sup>2</sup> and so a condition would need to be imposed to secure this.

Overall, the proposal partially conflicts with the requirements of Policy EMP DM1 but is in full accordance with WNDP policy CL1 which is the more recent policy.

### MINERALS SAFEGUARDING:

The site is in a Sharp Sand and Gravel Mineral Safeguarding Area as defined by the West Sussex Joint Minerals Local Plan (2018). 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 considered this in the submission. It is likely that prior extraction would not be practicable or environmentally feasible on this site given surface infrastructure (including areas of hardstanding) and residential properties nearby. This has not been demonstrated by the applicant and there is no overriding need for the development to outweigh any harm to existing minerals. Therefore, there is some conflict with the policy.

#### HIGHWAY SAFETY & PARKING:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should 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 states that proposals that significantly increase the level of traffic within the villages will be resisted particularly in the case of HGV movements.

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

WSCC Highways do not object and state the proposal would generate fewer vehicle trips compared with the previous usage and is likely to see a less intensive usage over the existing. There are no concerns with the upgraded access, visibility splays or the layout itself. This assessment was given when B8 storage/distribution was proposed and with this element now removed, there would be less large vehicle movements to/from the site.

A Road Safety Audit (RSA) and Designers Response (DR) has been provided (forming part of the Transport Statement). The RSA identified one problem with the condition of the carriageway of Eastergate Lane outside the site and recommends that this be repaired. This would be achieved through the access improvement works.

The Arun Parking SPD states B1 uses (now class E(g)) should provide 1 car parking space per 30m<sup>2</sup> of B1 Business space, 1 staff cycle space per 150m<sup>2</sup> and 1 visitor cycle space per 500m<sup>2</sup> but that the provision should also be tailored to take account of the land-use, trip rate and the user group of staff/visitors of the site (including shift patterns). The proposal is for 42 parking spaces for 1054m<sup>2</sup> of class E(g) floor space and the parking provision exceeds the requirement of 36 spaces. Cycle storage is in two locations on the site plan but the details would need to be secured through a condition.

The proposal complies with ALP policy T SP1, WNDP policy GA5 and the Parking Standards SPD.

#### TREES:

ALP policy D DM1 states development is expected to incorporate existing and new tree planting as an integral part of proposals. Policy LAN DM1 requires development respect the characteristics & natural features of the relevant landscape character areas and aims to reinforce or repair the character of those areas. ALP policy ENV DM4 seeks to protect important trees and only sanctions their loss if:

- a. the tree loss is in the interests of good arboricultural practice;
- b. the tree loss would enhance the survival & growth prospects of other protected trees;
- c. the benefits outweigh the loss of trees or woodland.

W NDP policy VE3 seeks to protect trees & hedgerows that contribute to local amenity and states that development proposals must be designed to retain wherever possible to retain ancient trees, trees of good arboricultural and amenity value and hedgerows. The Arun Design Guide states that important landscape features such as mature trees and planting should be retained and incorporated into the scheme wherever possible.

There is significant tree planting on the west, south and east boundaries in the southern half of the site. Those to the southern and western boundaries in the southern half of the site are mature trees and are visible from outside of the site (such as from Barnham Lane & its segregated shared cycle/foot path to the south or from adjoining land to the east & west). In addition, those on the southern and western boundaries form part of the W NDP designated biodiversity corridor.

It is difficult to accurately quantify the impact on trees as there are inconsistencies in the submission:

- The submitted Tree Survey states only partial removal of TG15 (Mixed Species) and H18 (Single Species Ornamental);
- The submitted Tree Report states only removal of T02 Acer Campestre, TG03 & TG04 (both Mixed Species);
- The legend on the submitted TRPP states that trees shaded with red diagonal lines are to be felled and this shading only indicates the partial removal of TG15 and H18 (as per the Survey). There is a note on the plan stating that all trees shown dotted are to be removed - and 9 trees on the southern & western boundaries are shown dotted; and
- The submitted Proposed Block Plan also has the note stating that all trees shown dotted are to be removed - and 10 trees on the southern & western boundaries are shown dotted.

(where T is Tree, TG is Tree Group, H is Hedge)

It is assumed the references in the Tree Report to T02, TG03 & TG04 and the inclusion of the note about dotted lines on the two plans are errors as the Tree Survey & the legend on the TRPP match up. The Ecology Assessment just states that there will only be the loss of some low value trees along the site boundary. These inconsistencies remain and they prevent proper assessment of the impact on trees. The Tree Officer also comments that the Tree Report states at paras 2.8 - 2.9, that "tree locations are indicative" and "the exact locations of the new units and landscaping are impossible to ascertain precisely at this time". This is stated to be unacceptable and contrary to BS5837:2012.

Notwithstanding, the site layout shows significant intrusion from buildings and new hardstanding into the RPAs of the boundary trees including in the very southern end of the site which is presently grassed. The Councils Tree Officer considers that the proposed new buildings and hardstanding has the potential to harm the important boundary trees both in terms of damage during construction, increased ground compaction over tree root systems and a future 'pressure to prune or fell'. This collectively presents a risk to the enduring character of the area and may also impact on biodiversity.

Due to it not being clear as to the extent of tree loss, it is difficult to properly assess the proposal against the policies. However, turning aside from which trees may or may not be removed, the proposed layout clearly results in new hardstanding and buildings within the RPAs of the important boundary trees. This is in conflict with the policies and any harm to these trees will adversely affect local character and landscape. There may also be knock on effects on biodiversity.

For these reasons, the proposal conflicts with ALP policies ENV DM4, D DM1, LAN DM1 and with WNDP policy VE3.

#### BIODIVERSITY:

ALP policy ENV DM5 requires development schemes achieve a net gain in biodiversity and protect habitats on site. The site is in the 12km buffer zone for the Singleton and Cocking Tunnels Special Area of Conservation (SAC). Policy SD10 of the South Downs National Park Local Plan states development proposals on greenfield sites or in close proximity to woodlands and hedgerows should ensure key features (foraging habitat and commuting routes/flightlines) are retained.

WNDP Policy VE10 2020 refers to the newly designated biodiversity corridors. One of these (number 2) is Wandleys Copse and is shown within the WNDP as going diagonally through the site. However, Walberton Parish Council confirmed in writing on the previous application that the actual route of the corridor follows the drainage ditch system on the southern and western boundaries.

The policy states proposals will not be supported where there is evidence that the proposals would significantly harm biodiversity, unless it can be adequately avoided, mitigated, or alternatively the subject of compensation. In addition, development within the Singleton and Cocking Tunnels SAC buffer zone should evaluate the potential loss of suitable foraging habitat and/or severance of commuting flight-lines such as mature treelines, hedgerows and watercourses.

It is unclear what the impact will be on important boundary trees in the biodiversity corridor. The ecology survey refers to only the loss of some low value trees along the site boundary but does not set out which ones are affected and there are inconsistencies between the supporting tree documents. However, it is clear that there will be harm to most of these trees from intrusion within their RPAs.

Unlike with the previous application, this submission includes an Ecological Impact Assessment (EIA). This concludes the site contains some habitat suitable for reptiles, dormice, badgers and bats. In respect of bats, it states that the 6 no. Poplar trees have 'low' roost potential. These are all potentially affected by the layout. The EIA states that once avoidance and mitigation measures have been taken into account, the biodiversity impact will be "negligible & non-significant". Further that, proposed ecological enhancements will result in a net gain and a long-term positive increase in biodiversity. Enhancements proposed include new planting of species attractive to bats, bird & bird nesting boxes, new native trees/hedging (including fruit & nut trees) and a sensitive lighting scheme.

The EIA refers to trees on the boundaries of the southern end of the site having wildlife value including as a potential commuting corridor for bats and that the large poplar tree on this boundary has 'low' bat roost potential. As discussed already it is unclear whether these trees are being retained and there is to be significant RPA intrusion underneath these trees. The T14 Poplar on the southern boundary has a surface water attenuation pond proposed underneath it. It is acknowledged that the Council's Ecologist has not raised objections but their comments were provided in response to the EIA and do not consider the full assessment of harm to trees.

Although certain biodiversity enhancements are proposed, due to the application not being clear about tree loss and due to the harm from development in the RPAs, it is not possible to be clear as to whether the proposal will result in biodiversity net gain.

The site lies in the 12km zone of the Singleton and Cocking Tunnels SAC. The application considers this and states that no major impacts are predicted to bats as commuting routes along the site boundaries will not be affected and flight lines will be maintained. Given that it is unclear whether all or any of the important trees are being retained and given the potential for stress on these important trees, it is not

possible to undertake an Appropriate Assessment and conclude that the development will not result in any significant adverse effects upon the bat species associated with the SAC and its functionally linked habitats.

The proposal is in conflict with ALP policy ENV DM5, WNDP policy VE10 2020 and with policy SD10 of the South Downs National Park Local Plan.

#### **DESIGN & 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. Policy LAN DM1 requires development respect the characteristics & natural features of the relevant landscape character areas and aims to reinforce or repair the character of those areas. WNDP policy HP13 states that new development which would have an effect on the appearance or character of the surrounding area must be of a high quality of design and must contribute to local character.

The National Design Guide (NDG) states achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials and their detailing. The Arun Design Guide is a material consideration and section Q discusses rural development which sets out the need for development to integrate into the landscape setting, respect rural character and use simple, unobtrusive design. The applicant does not acknowledge the National or Arun Design Guides in the submission.

The submitted Design and Access Statement states the external appearance of the units is typical of rural commercial barns and of other commercial units in this area. Materials include brick, timber cladding and corrugated sheet roofing. This reflects the guidance in the Design Guide for rurally appropriate design. The new buildings are well within existing boundaries, hedges are retained and the layout is functional & uncomplicated. The single storey nature of the buildings respect the heights of existing structures and ensures they are not readily visible from outside the site other than from existing adjoining developed sites to the east and west.

The buildings will not harm the character & appearance of the locality but as a whole, the development and the layout will result in harm to trees which will potentially cause harm to local landscape and character it is not possible to conclude compliance with all of the relevant policies at this time.

#### **RESIDENTIAL AMENITY:**

ALP policies D DM1 and QE SP1 require there be minimal impact to the amenities of users/occupiers of nearby property & land. As noted elsewhere, WNDP policy CL1 requires that the impact on the amenities of surrounding properties is acceptable.

The buildings are all single storey and noting the existing boundary treatments and the long distances to nearby dwellings, there will be no harm in respect of privacy or light to existing residential properties. It is also material that this is an existing commercial site and that no residents have raised any amenity concerns. The scheme accords with ALP policies D DM1 and QE SP1.

#### **NOISE, LIGHT & AIR POLLUTION:**

ALP policy QE DM3 requires that major developments must be in easy reach of established public transport services, maximise provision for cycling & pedestrian facilities, include electric car charging points and contribute towards the improvement of the highway network. Also, industrial development must be located in such a position which ensures that the health, safety and amenity of users of the site

or surrounding land is not put at risk. ALP policy QE DM1 states that new noise generating development should demonstrate that there are no suitable alternative locations for the development and provide a noise report.

The application does not include air or noise assessments however it is material that this is an existing commercial site, the proposal is only for light industrial and office (class E(g)) uses and that the light industrial units (type B buildings) are sited at the south end of the site with the northern elevation of the closest B type unit being 120m from the nearest dwelling (and with other buildings in between). All buildings are orientated to have doors facing into the site/facing other proposed buildings (so not to the boundaries). There are no parking areas adjacent to any existing residential boundaries.

This is an existing commercial site already attracting vehicle movements. It is possible to cycle to the site or take a bus to Walberton and then walk (or cycle from there). Conditions can be imposed to secure cycle parking and electric vehicle charging.

ALP policy QE DM2 and WNDP policy VE8 require that new lighting not have adverse impact on neighbouring uses or the wider landscape including existing unlit environments. A condition would need to be imposed to control new lighting and this condition would also ensure that new lighting is not harmful to bats.

Environmental Health raise no objection subject to conditions to secure electric car charge points, protect residents from disturbance during construction and to restrict the use to that which has been proposed. In the absence of an objection from the Councils experts on pollution, and given that this is an existing commercial site, there is no conflict with the relevant policies.

#### SURFACE WATER DRAINAGE:

The site is not currently affected by flooding from rivers or sea and is not predicted to be so in the future. However, there are localised instances of surface water flood risk on Eastergate Lane to the front of the site and also along the western and southern boundaries where there are drainage ditches.

ALP policy W DM3 and WNDP policy VE7 require new development make appropriate provision for accommodating the surface water arising from the development including through the use of sustainable urban drainage systems (SuDS).

A Drainage Strategy has been submitted and this proposes to dispose of surface water via permeable paving connected to attenuation ponds before discharging at a restricted rate to the watercourses along the southern and western boundaries. The use of attenuation ponds may cause harm to retained trees and this has been considered elsewhere. This drainage approach is agreeable to Council drainage engineers provided testing is first carried out to rule out infiltration to ground.

Engineers considered the concern raised by the Parish Council in respect of surface water flooding on Eastergate Lane and state this is not due to the site (rather runoff from the land to the North), that the scheme will improve the drainage situation on site and measures can be introduced at the detailed design stage to improve the situation on Eastergate Lane. No objection is raised subject to conditions.

Surface water flooding is not defined in the same way as fluvial/tidal flooding (i.e. is not considered as Flood Zones 1, 2 or 3). The effect of a drainage scheme applied to the site to deal with surface water from the development will likely take away small instances of localised surface water flooding in the site but in any case, none of the new buildings are in the areas affected by this. As such, there is no conflict with the relevant drainage policies.

#### FOUL DRAINAGE:

ALP policy W DM1 states all major developments must demonstrate that adequate drainage capacity exists or can be provided as part of the development and that where adequate capacity does not exist, there will be a requirement that facilities are adequately upgraded prior to the completion and occupation of development. There is also a requirement for a Drainage Impact Assessment as the site lies within the Lidsey Treatment Catchment designation.

The applicant advised the requirements of policy W DM1 are covered in the drainage report which concludes a significant betterment to surface water drainage and a minor increase in contribution to the foul sewer network. Southern Water raise no objections (subject to a condition to phase occupancy of the site to align with sewer improvements). On this basis, there is no conflict with the policy.

#### CLIMATE CHANGE:

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

The application does not include information pertaining to energy efficiency other than to say the buildings will be constructed with an insulated metal frame. The policy requirements could be resolved through an appropriately worded condition therefore there would be no conflict with the policies.

#### SUSTAINABLE DEVELOPMENT:

The NPPF confirms the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay. Alternatively, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

This is an existing commercial site already attracting vehicle movements. It is possible to reach the site by cycle, on foot or by bus. There are concerns with the proposal in terms of harm to trees and wildlife and it is not clear the scheme results in biodiversity net gain. The proposal provides a significant increase in jobs on the site (from 11 FTE to 35 FT) and employees may make use of local services and facilities for example at lunchtimes so there could be a minor positive impact on the local economy from such spending.

#### SUMMARY:

The proposal represents appropriate development in the countryside due to it being for an upgrade of an existing site with no harm to residential amenities. There are no concerns with the design of the buildings, pollution, highway safety, drainage or climate change. There is a policy conflict in respect of mineral safeguarding but it is material that the site is already developed and in use.

However, the Council concludes there are significant and demonstrable negative impacts associated with the development in respect of harm to trees & biodiversity and as such the application should be refused for the following two reasons:

## HUMAN RIGHTS ACT

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

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

## DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

## CIL DETAILS

This application is not liable for CIL.

## RECOMMENDATION

### REFUSE

- 1 The supporting documents are collectively unclear as to which of the important trees on the site are to be removed but it is clear the layout will result in substantial and potentially damaging activity in the Root Protection Areas of the vast majority of retained trees. This combined with potential damage during construction, ground compaction and future pressure to prune or fell will result in clear harm to such trees and the contribution they make to the character of the area, the local landscape and to on-site ecology in conflict with Arun Local Plan policies ENV DM4, ENV DM5, D DM1 & LAN DM1, Walberton Neighbourhood Development Plan policies VE3 & VE10 2020 and the NPPF.
- 2 Given the discrepancies in the application regarding the impact on trees, it is not possible to determine whether the proposed development will result in any significant adverse effects upon the Singleton and Cocking Tunnels Special Area of Conservation, the bat species associated with that site or its functionally linked habitats (in respect of loss of foraging habitat and/or severance of commuting flight-lines). The proposal is therefore in conflict with Arun Local Plan policy ENV DM1 and Walberton Neighbourhood Development Plan policy VE10 2020.
- 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 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 meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.