

Recommendation Report for Planning Permission

REF NO: Y/186/21/PL

LOCATION: Bonhams Field
Main Road
Yapton
BN18 0DX

PROPOSAL: Erection of 32 No dwellings with associated works including access, landscaping and parking. This application may affect the setting of a listed buildings, may affect the Main Road/Church Road Conservation Area. This application is in CIL Zone 2 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks full permission for 32 dwellings however, the site area already has permission for 16 dwellings as part of a larger permission for 56 dwellings and that permission has been implemented. This application would result in 72 dwellings on the entire site. All buildings are two storeys in height and the mix consists of 2 x 1 bed flats, 1 x 2 bed flat, 12 x 2 bed houses, 16 x 3 bed houses and 1 x 4 bed house. The new houses are similar or the same in design to those on the approved scheme but with a greater number of semi-detached and some terraced dwelling forms. Six of the dwellings (2 x 1 bed, 2 x 2 bed & 2 x 3 bed) will be affordable (18.7% of the total) but none in the site area are shown as being M4(2) compliant. Parking provision is in the form of driveway, forecourt or rear parking court spaces and integral/attached/detached garages & car ports. All garages meet the 3m by 6m minimum requirement. The scheme includes 5 visitor spaces (none of these were shown on the approved layouts so are all new). There are no changes to the access arrangements, but a new turning head is proposed in the north-western corner (adjoining the north-eastern boundary). No new open space or play provision is shown in the site area. The site plan indicates sheds in the rear gardens of those houses not having a garage which will provide cycle storage, but no elevational details are provided so a condition would be required to ensure approval of such details. A condition would be required regarding bin stores/storage spaces as these are not shown.
SITE AREA	0.96 hectares

RESIDENTIAL DENSITY (NET)	33.3 dwellings per hectare. The density of the resultant entire site would be 22.5 dwellings per hectare.
TOPOGRAPHY	Predominantly flat, but rises gently in a north/north-easterly direction from Yapton Road.
TREES	There are relatively few trees of moderate to high value, the vast majority of which are confined to the site perimeter and outside of the site. An off-site Pedunculate Oak tree overhanging the parking court behind plots 4-7 in the phase 1 area is subject to a Tree Preservation Order (TPO/Y/1/20).
BOUNDARY TREATMENT	This site is a part of a larger site and as such there are no boundaries with the other parts of the wider site. However, the north western and north eastern boundaries are defined by established hedgerow and mature trees.
SITE CHARACTERISTICS	The site comprises a former agricultural field now the site of a residential development in process of being constructed.
CHARACTER OF LOCALITY	The site is in the settlement boundary of Yapton. To the east on the corner of North End Road, there is the former Olive Branch public house which has been converted to residential use. Properties on the west side of North End Lane back on to the site. The site is set in an area that has a relatively open character with a mix of large properties in large plots and smaller terraced properties located along Main Road. Residential development is along the length of North End Road to the east, and along either side of Main Road to the south and west of the site. An established hedgerow runs north to south across the site and forms the south-eastern extent of the application site area Main Road serves the village and runs south of the site. The wider village is semi-rural in character but benefits from GP surgeries and pharmacy, two churches, a village hall and playing fields, Yapton Church of England Primary School and a small selection of shops (including post office and local convenience store). Barnham railway station is 2 miles west and a regular bus service serves the village. Almost opposite the site access is the site of a strategic housing development for 300 dwellings although this is well set back from the road with an area of open space and hedging in between. To the north-east beyond an agricultural track is further approved residential development.

RELEVANT SITE HISTORY

Y/176/21/PL	Variation of condition following grant of Y/63/19/RES relating to Condition 1 - approved plans (replacement of a proposed brick wall with Iron Parkland boundary railings to match the existing railings along the site boundary). This application may affect the character & appearance of the Yapton (Main Rd) Conservation Area
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& may affect the setting of Listed Buildings.

Y/177/21/PL	Variation of condition following grant of Y/63/19/RES relating to Condition 1 - approved plans (the siting of an electricity sub-station and relocation of two car parking spaces). This application may affect the character & appearance of the Yapton (Main Rd) Conservation Area and may affect the setting of Listed Buildings.	
Y/11/21/NMA	Non-material amendment following grant of Y/63/19/RES to increase the number of M4 (2) 'Category 2: Accessible and Adaptable Dwellings' affecting Plots 42 to 47, involving altered internal layouts and a slight increase in the footprint of the plots by 75mm east-west and 250mm north-south.	Approve 25-02-21
Y/99/20/PL	Variation of conditions following Y/1/17/OUT to reword conditions 12, 14 & 16 as set out in the application covering letter in order to allow for the proposed access works to be implemented separately to the rest of the planning permission.	App Cond with S106 08-01-21
Y/98/20/PL	Erection of 75 No. dwellings with associated parking, public open space & the creation of a new vehicular access. This application affects the character & appearance of the Main Road/Church Road Conservation Area & affects the setting of listed buildings.	Refused 23-12-20
Y/63/19/RES	Approval of reserved matters following the grant of Y/1/17/OUT for 56 No. dwellings with associated open space & creation of new access. This application affects the character & appearance of the Yapton (Main Road) Conservation Area & affects the setting of listed buildings.	ApproveConditionally 21-02-20
Y/1/17/OUT	Outline Application with some matters reserved for the erection of 56 No. dwellings with associated open space and creation of new access. This application is a Departure from the Development plan & affects the character & appearance of the Yapton (Main Road) Conservation Area.	App Cond with S106 07-12-17

The site benefits from extant permission (Y/1/17/OUT and Y/63/19/RES) for 56 dwellings with access from Main Road and this permission is currently being implemented. This has been amended by Y/99/20/PL (concerning the wording of certain conditions), Y/11/21/NMA (to increase the number of M4(2) homes within the phase 1 area) and Y/177/21/PL (to site a substation and relocate two parking spaces).

Application Y/98/20/PL sought permission for a re-plan of the whole site to seek an uplift of 19 dwellings (so 75 overall) and it was refused in December 2020 for the following reasons:

(1) The proposal constitutes an over-intensive use of the site and an unsatisfactory form of development resulting in significant and demonstrable harm to the historical, semi-rural & low-density character of this edge of settlement location. This is borne out by the increased site density, cramped nature of the layout, the relationship of parking spaces to dwellings, the internal size of certain homes, the size of private amenity spaces and interface distances between buildings. The proposal is therefore in conflict with Arun Local Plan policies D SP1, D DM1, D DM2, the NPPF and the National Design Guide.

(2) The proposal fails to achieve an appropriate housing size mix resulting in harm to the future provision of housing to cater for specific needs in conflict with policy H DM1 of the Arun Local Plan and policy H2 of the Yapton Neighbourhood Development Plan.

(3) The affordable housing tenure mix fails to comply with Arun Local Plan Policy AH SP2 and on this basis, it has not been possible to agree a legal agreement in order to secure the delivery of the affordable housing requirements. This results in harm to the future provision of affordable housing in the district.

(4) Insufficient information has been provided to enable the Local Planning Authority to assess the impact of the development on the ability of the foul sewerage network to accommodate surface and foul water flows from the development resulting in harm to the amenities of local people due to flooding and is therefore in conflict with policy W DM1 of the Arun Local Plan.

Pre-application advice was sought in August 2021 concerning a re-plan of part of the site (albeit a different part to that now applied for) and an uplift of 7 dwellings (so a total of 63 overall). The Local Planning Authority stated in response that the proposal would not currently be capable of support due to concerns regarding overdevelopment in the area of the re-plan and the potential for harm from the identified issues to the amenities of future residents. The applicant was also advised of the potential for conflict in respect of s106 and CIL if a partial re-plan was submitted and was advised instead to submit a full planning application for the entire site.

REPRESENTATIONS

Yapton Parish Council - object for the following reasons:

- This site is key to the setting of both a conservation area and reflecting Yapton's historic rural identity and so should not become an overdeveloped residential area.
- No material difference between the refused application and this new application which proposes an overall total of only 3 less dwellings.
- Insufficient parking provision.
- Conditions should be imposed to prevent future garage conversions.
- The proposed link to the north should be unhindered to allow future safe use by cyclists/pedestrians.

- No need in Yapton for further dwellings as the Parish has already exceeded its medium-term local allocation.
- The proposal fails to meet ADC's affordable housing policy.
- Cumulative impact of all new housing proposals on the existing local road network especially North End Road and Main Road.
- Need conditions to mitigate surface water drainage issues; and
- The proposal should be water neutral as there are issues with the supply of fresh water.

In addition, 11 objections raising the following concerns:

- How is it possible to amend a scheme (increasing the number of dwellings) after it has been granted?
- ADC should not have accepted the application.
- Application not advertised properly and no contact from the developers.
- Additional homes will further harm the existing heritage assets.
- Insufficient parking leading to pressure to park on pavements/verges.
- Poor quality houses currently being built.
- Insufficient local infrastructure.
- Density is inappropriate.
- Parking bays in lieu of front gardens is poor design.
- Pure greed by the developer; and
- Increased harm to wildlife.

COMMENTS ON REPRESENTATIONS RECEIVED:

The comments of the Parish Council and objectors are noted, and the majority of the concerns are considered in the conclusions section with the exception of the following:

- A condition to prevent future conversion of garages into habitable accommodation would be appropriate.
- It is acknowledged that the safeguarded area for the path link is no longer shown and that there is a new large turning head shown in this area.
- It is acknowledged that Yapton has significantly contributed to the HLS shortfall however there is still an unmet need across the whole district and so it is necessary to give due consideration to proposals for new housing, particularly in sustainable edge of settlement locations such as this.
- No restrictions on water consumption were imposed on the existing permission or any of the adjacent sites (including the nearby strategic allocation). It is only a requirement to consult Portsmouth Water where water source protection zones are directly affected, and this site does not lie in such an area.
- There are no planning laws to prevent applicants making changes to agreed schemes.
- Arun DC was not able to refuse to accept this application.
- The application was advertised in accordance with the council's procedures, namely by site notices and newspaper advert.
- There is no requirement under planning policy for developers to conduct community consultation although it is always encouraged.
- The existing houses being built have already been granted planning permission.
- The approved layout had front parking bays and there is no material difference between the amount of this or frontage greenery between the approved and proposed schemes; and
- The motives of developers is not a material planning consideration.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

NATIONAL HIGHWAYS - no objection subject to condition to ensure that no more than 16 dwellings are complete before the strategic improvements works to the A27/Yapton Lane junction have been completed. Should ADC not propose to determine the application in accordance with this recommendation then they are required to consult the Secretary of State for Transport and may not determine the application until the consultation process is complete.

NATURAL ENGLAND - make no comments.

SOUTHERN WATER - no objection subject to a condition to phase occupation to align with the delivery of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to drain the development.

SUSSEX POLICE - no objection but list advisory notes regarding improving security.

WSCC FIRE & ACCESS - no objection subject to conditions to secure fire hydrants.

WSCC PUBLIC RIGHTS OF WAY (PRoW) - no objection but request that the proposed footpath be given bridleway status.

WSCC LEAD LOCAL FLOOD AUTHORITY - no objection and state that:

- Surface water mapping shows site is at low risk from surface water flooding. This risk is based on modelled data and should not be taken as meaning the site will/will not definitely flood in these events.
- The area of development is shown to be at high risk from groundwater flooding based on current mapping, but this is modelled data only and should not be taken as meaning the site will/will not suffer groundwater flooding.
- No ordinary watercourses running close to the boundaries of the site; and
- No records of historic surface flooding within the confines of the site.

WSCC HIGHWAYS - no objection with the following comments:

- During the AM/PM peak hours the additional 16 dwellings could create an additional 12 trips in the morning and 13 trips in the evening.
- When applying this to the entire site (72 dwellings) this would create 53 trips in the AM peak, and 44 trips in the PM peak. This equates to around 1 vehicle every 2-3 minutes, going in or out in both the AM and PM peak and this is not considered to create a material capacity impact on the surrounding highway network.
- The increase in dwellings will require a re-calculation of the car parking and number of EV charging points. Bicycle storage should also be provided.
- A refuse vehicle can use the new turning head safely.
- Contrasting surface materials should be used between roads and footways.
- The link path entrance does not seem very wide and may need re-designing in this area to avoid walking/cycling over the footpath of plot 225. - The associated turning head also has a footpath which does not link into anything and could instead be used for the planting of more trees or vegetation.
- WSCC would ask the applicant to provide an updated plan showing the location of the 'safeguarded (link) area' in relation to the new turning head layout; and
- A condition is required to secure a construction management plan and a travel plan & associated contribution of £1,500 for auditing & monitoring must be secured by legal agreement.

ADC ENVIRONMENTAL HEALTH OFFICER - no objection. Request an air quality assessment is submitted and also that conditions be imposed regarding construction management, construction hours of working, external lighting, internal & external residential noise levels, road noise, land contamination and electric vehicle charging provision.

ADC LANDSCAPE OFFICER - objection with the following comments:

- The site is deficient in terms of open space although when considered alongside the approved site, there is an overprovision.
- The development layout is cramped and overdeveloped particularly in the north/west corner.
- The proposals presented in this application Y/186/21/PL and the previous application Y/98/20/PL appear detrimental in design layout to those approved by the existing permission.
- The landscaping detail is very inadequate in species choice and variety and would need to be further detailed and submitted for approval; and
- In line with Policy ENV DM5 of the Arun District Local Plan information on Biodiversity Net Gain will need to be provided.

ADC DRAINAGE ENGINEERS - no objection subject to standard conditions. Comment that a drainage strategy has been submitted with this application, but it does not include results from 1 in 10 years plus 40% cc rainfall events to demonstrate that incoming invert levels to sub-bases are above this water level. The factors of safety applied to calculations are also lower than our requirements. These matters can resolve at condition discharge stage.

ADC CONSERVATION OFFICER - the development will not result in any harm to the significance of the heritage assets or their setting and so should be determined in accordance with the relevant policies within the Development Plan, along with these comments:

- The location of the whole development at the entrance to both the village and the conservation area, along with a significant number of heritage assets (designated and non-designated heritage assets) means that development in this site will be fully visible.
- However, the site area is surrounded by the remainder of the previously approved (and unaltered) scheme, and so would be screened by the unaltered element of the previous approval and not be seen in the context of the heritage assets.
- Less than substantial harm has already been established in relation to the approved site as a whole; and
- As usual, the success of the scheme will depend upon the quality of the materials used.

ADC HOUSING STRATEGY & ENABLING MANAGER - object to the under provision of affordable homes on the site.

COUNCILS ARCHAEOLOGIST - this site has been fully investigated, no further archaeological intervention is justified.

COUNCILS ECOLOGIST - no objection and requests conditions to secure retention/enhancement of hedges for bats/Dormice, protection of retained hedges during construction, secure details of the lighting scheme, survey for badgers & hedgehogs at the start of construction, secure the construction site to prevent access by small mammals, secure the mitigation set out for foxes/reptiles and protect birds' nests. Requires a condition to ensure the biodiversity enhancements recommended in the Ecology Update Survey and Mitigation Strategy (Sept 2020) are incorporated into the landscaping scheme.

CONSERVATION AREA ADVISORY COMMITTEE - unlikely to be any harm to the nearby Listed Buildings or the Conservation Area but development should retain local distinctiveness and use high

quality materials.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and will be addressed in conclusions section except as discussed below:

WSSC PUBLIC RIGHTS OF WAY (PRoW) - Application Y/63/19/RES was subject to a condition stating:

"The area hatched in red on drawing 18076-P102 Rev V "Proposed Site Plan" shall be safeguarded as a potential future public footpath link onto the adjoining private access track. If at such time as a footpath is provided from the adjacent Stakers Farm site (ref Y/44/17/OUT or subsequent planning permission) onto the access track, then the developer shall submit to the Local Planning Authority for approval in writing, plans and details of a footpath link and the footpath link shall then be implemented within 3 months of the approval of the details and thereafter permanently retained."

Since that time, there have been proposals in the wider area to provide a shared cycle/foot path through sites located west of North End Road as part of a wider route to allow children in Barnham to cycle to a proposed secondary school in the Yapton/Ford area. As such, it would be appropriate that the link enables use by cyclists as well as pedestrians, but it is not clear what the justification is for use by equestrians also.

WSSC HIGHWAYS - it is acknowledged that the proposal altered the road layout in the vicinity of the proposed link and that the safeguarded area is no longer shown, or any details provided of a proposed connection. The adjacent Stakers Farm development has included a connection point in their approved plans. However, the success of such a link is dependent on agreement being reached with the owner of the agricultural track which runs between the two sites to allow persons to lawfully cross this.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary (BUAB).

Area of Special Control of Adverts.

Close to three Grade II Listed Buildings and a Conservation Area.

Lidsey Drainage Catchment Area.

CIL Zone 2; and

Current & Future Flood Zone 1.

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
HDM1	H DM1 Housing mix

HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
HERDM6	HER DM6 Sites of Archaeological Interest
HERSP1	HER SP1 The Historic Environment
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
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
SDSP2	SD SP2 Built-up Area Boundary
SODM1	SO DM1 Soils
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

Yapton neighbourhood plan 2014 Policy BB1	Built-up Area Boundary
Yapton neighbourhood plan 2014 Policy H2	Dwelling size
Yapton neighbourhood plan 2014 Policy H3	Dwellings appropriate for the needs of older people
Yapton neighbourhood plan 2014 Policy E1	Protection of high value agricultural land
Yapton neighbourhood plan 2014 Policy E3	Protection of natural habitats
Yapton neighbourhood plan 2014 Policy E4	Minimising the environmental impact of development
Yapton neighbourhood plan 2014 Policy E5	Enhancement of biodiversity
Yapton neighbourhood plan 2014 Policy E8	Conservation Areas
Yapton neighbourhood plan 2014 Policy E9	Listed Buildings and Buildings or Structures of Character
Yapton neighbourhood plan 2014 Policy E11	Minimising the impact of flooding from development
Yapton neighbourhood plan 2014 Policy PK1	Parking standards for new residential development

PLANNING POLICY GUIDANCE:

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

SUPPLEMENTARY POLICY GUIDANCE:

SPD2	Conservation Areas
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SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities
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 relevant policies within the Yapton Neighbourhood Development Plan (YNDP) have been considered in the preparation of this report. Yapton are currently working on a revised Plan (YNDP2) and are currently at regulation 16 stage such that it is necessary to refer to the emerging policies. The emerging plan shows the site as being within the BUAB.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

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

The proposal conflicts with relevant Development Plan policies in that it will overdevelop the site to the detriment of the existing historical and low-density edge of settlement character and the amenities of future occupiers. The proposal also fails to accord with affordable housing policy, fails to provide a policy compliant housing mix, fails to consider the needs of elderly housing occupiers, fails to provide policy compliant open space in the application area, conflicts with foul drainage policy and is unable to resolve the conflict between the requirement for CIL and the existing infrastructure secured by the s106.

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:

The site is a former agricultural field located on the edge of Yapton in the Built-Up Area Boundary (BUAB) as defined by the Arun Local Plan (ALP). The site is outside of the boundary set by the current

Yapton Neighbourhood Development Plan (YNDP) but is shown within the BUAB in the emerging revised version (YNDP2).

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. 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 conflict with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Until such time as the YNDP2 is made, any conflict between the current YNDP and the ALP would be resolved in favour of the latter.

In January 2022, the Council published its Authority Monitoring Report (AMR) for 2020/21 and this shows that the Housing Land Supply (HLS) has decreased from 3.3 years to 2.42 years. This reflects a more rigorous assessment of housing trajectories following recent appeals including the appeal concerning Land South of Barnham Station as received in early January 2022 which comprehensively analysed the HLS position and stated that the HLS was around 2.63 years. On the basis of the current HLS and the age of the YNDP, para 14 of the NPPF does not apply. It is acknowledged that Yapton has significantly contributed to the HLS shortfall however there is still an unmet need across the whole district and this needs to be considered in all locations despite previous contributions.

Policy SD SP1 of the ALP states: "When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)." Policy SD SP2 states that development within the Built-Up Area Boundary (BUAB) will be permitted, subject to consideration against other policies of the ALP.

The National Planning Policy Framework (NPPF) advises planning decisions should promote and support the development of under-utilised land, especially if this would help to meet identified needs for housing (para 120d). Para 125 states where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure developments make optimal use of the potential of each site.

Due to the Council's current HLS shortfall, it is necessary to give due weight to proposals that seek to maximise the potential of sites, particularly those already with permission within sustainable BUAB locations. There are no in principle objections to further development of this site but in order to demonstrate compliance with policies SD SP1 and SD SP2, it is necessary to consider all other policy requirements.

TRAFFIC & ROAD SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should 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. Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes.

The only relevant YNDP policy is PK1 which refers to parking. 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 to the uplift in residential dwellings on this part of the site with reference to the capability of the proposed access and road network. They have no concerns with the amendments to the layout. They do comment that the plans have changed in relation to the proposed foot/cycle path connection to adjoining land and they ask for a clear indication of how such a connection will work in the future. The applicant has not responded to this request, and it is clear that the layout as proposed no longer shows the safeguarded area that was present on previous applications. It is therefore assumed that this will not be provided which will be to the detriment of the sustainability of the site and surrounding area.

This site is a key part of the proposal to provide an alternative shared pedestrian/cycle route around the western side of Yapton to enable access to Schools and other facilities taking pressure off the narrow pavement along North End Road. It is disappointing therefore that no link has now been shown and for that reason there is conflict with policies T DM1 and T SP1.

The councils Parking Standards SPD sets out a need for 64 allocated spaces (2 per 1-3 bed dwelling & 3 for the 4 bed) and visitor parking of at least 6 spaces. It should be noted that garages meeting 6m by 3m (which all do) are only counted as providing half a space. The layout shows a total provision of 68.5 allocated spaces and 5 visitor spaces. Whilst there is some shortfall in that the two 1 bed flats have only 1 space each and the 2-bed flat 1.5 spaces, overall, the total provision exceeds the requirements by 1.5. The layout indicates bike stores in rear gardens for dwellings not benefiting from a garage.

HERITAGE:

ALP policy HER SP1 states development likely to prejudice heritage assets and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. HER DM3 sets out criteria for proposals affecting the setting of a Conservation Area and those relevant are:

- (a) New buildings and structures acknowledge the character of their special environment in their layout, form, scale, detailing, use of materials, enclosure and the spaces created between buildings.
- (e) It retains historically significant boundaries, important open spaces, and other elements of the area's established pattern of development, character, and historic value, including gardens, roadside banks, and verges; and
- (f) It does not harm important views into, out of or within the Conservation Area.

YNDP policy E8 requires developments either preserve or enhance the character of Conservation Areas. In addition, development proposals will be expected to be suitably designed taking account of the local character/context and use traditional/vernacular building materials. YNDP Policy E9 refers to Listed Buildings but does not refer to impacts on setting.

Paragraph 194 of the NPPF requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 195 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is no harm, 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance any harm with the level of public benefits associated with the proposal.

The conservation officer reviewed the Heritage Assessment which suggests a negligible impact on the heritage significance of Bonham's House and Barn. The conservation officer considers the new houses will be shielded from the heritage assets by elements of the approved housing scheme. On this basis, the conservation officer advises that there will be no harm. This view is expressed by the Conservation Area Advisory Committee who state it is unlikely that there will be any harm to the nearby Listed

Buildings or the Conservation Area.

There will be no impact on the setting of the Listed Buildings and Conservation Area and so no conflict with the relevant policies. There is also then no conflict with the contents of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). It is also noted that this proposal has no impact on the existing hedge that crosses the site and is considered to contribute to the setting of the Conservation Area.

ARCHAEOLOGY:

The site does not lie in a designated archaeological notification area but has been subject to an archaeological investigation associated with the previous application. ALP Policy HER DM6 states that where a site on which development is proposed has the potential to include heritage assets with archaeological interest, permission will only be granted where it can be demonstrated that development will not be harmful to the archaeological interest of these sites. The policy requires that a desk based archaeological assessment be submitted with the application.

The applicant has not provided any new archaeological reports and there is conflict with ALP policy HER DM6 and with the NPPF. However, it is material that the site has been subject to an archaeological evaluation (a copy of this has been provided previously). This resulted in the discovery of deposits of archaeological interest whose significance have been preserved via a second stage investigation. The council's archaeologist advises that no further archaeological intervention is justified. Whilst there is conflict with ALP policy HER DM6, the previous investigation is a material consideration which indicates that permission may be granted despite the conflict.

HOUSING MIX:

ALP policy HDM1 seeks a mix of dwelling types and sizes to address the nature of local housing needs and market demand. The policy preamble (12.2.4) acknowledges that the final mix will be negotiated on a site-by-site basis, having regard to the most up to date Strategic Housing Market Assessment (SHMA).

Paragraph 63 of the "Updated Housing Needs Evidence" (September 2016) stated the evidence highlights a direction towards the provision of 2 and 3 bed units for market units and smaller affordable units. Paragraph 6.10 then states the analysis clearly shows the different profiles in the different broad tenures with affordable (rented) need being more heavily skewed towards smaller dwellings and market housing predominantly homes with three or more dwellings. Table 29 identifies a suggested broad mix of market housing by size for the District:

- 1-bed dwellings: 5-10% of all dwellings.
- 2-bed dwellings: 40-45% of all dwelling.
- 3-bed dwellings: 35-40% of all dwellings; and
- 4+ bed dwellings: 10-15% of all dwellings.

Separate ratios are given for affordable rented and intermediate/starter homes however this element of the mix would be separately agreed through a s106 legal agreement (or variation of the existing) and should reflect the advice of the Councils Housing Strategy Manager. YNDP policy H2 (which is not proposed to be amended by the YNDP2) requires the following mix for developments of fifteen or more dwellings:

- 1-bed dwellings: 10-15% of all dwellings.
- 2-bed dwellings: 25-35% of all dwellings.
- 3-bed dwellings: 45-55% of all dwellings; and

- 4+ bed dwellings: 5-10% of all dwellings.

The development in the site area comprises the following mix (expressed as the number and percentage (%) of market only units (26) and the number and percentage of market & affordable combined (32) in order to show compliance with both of the above housing mix ranges):

- 0 / 2 x 1 bed dwellings (0% / 6%).
- 11 / 13 x 2-bed dwellings (42% / 40%).
- 14 / 16 x 3-bed dwellings (46% / 50%); and
- 1 / 1 x 4-bed dwellings (3% / 3%).

The scheme achieves compliance with the ALP policy only in respect of the percentage of 2 beds and only with the YNDP policy in respect of the percentage of 3 beds. Therefore, the application conflicts with both the ALP and YNDP policies. It has not been possible to calculate the overall market only housing mix including the consented scheme, but the following shows the proportions in respect of market and affordable housing combined across the entire site (total of 72 dwellings):

- 6 x 1 bed dwellings (8%).
- 35 x 2-bed dwellings (48%).
- 27 x 3-bed dwellings (37%); and
- 4 x 4-bed dwellings (5%).

The resultant overall site would therefore only meet the YNDP policy in respect of the proportion of 4 bed homes.

HOMES FOR OLDER PEOPLE:

YNDP Policy H3 requires that a minimum of 25% of the 1, 2 and 3 bed dwellings are delivered to Lifetime Home Standards. The emerging YNDP2 proposes no amendments to this policy. The lifetime homes standard was replaced by the M4(2) standard in the Building Regulations. In order to comply with the YNDP policy, 32 dwellings should provide at least 7 no. M4(2) homes (or 4 for the 16 extra homes).

Arun has an agreed internal policy on the provision of housing accommodation to provide for an ageing generation ("Accommodation for Older People and People with Disabilities", 2020). This is not adopted policy or a supplementary planning document but is considered to have some weight as a material planning consideration and is supported by references in ALP policies D DM1 & D DM2 and has been subject to consultation. However, in the case of this application, the YNDP requirements take precedence.

The applicant states that no M4(2) homes are being provided as there has been an over provision on the existing approved site. Whilst this is true, there is conflict with policy H3 due to this proposal being a standalone application (and not an alteration of the existing permission or as a full application for the entire site as per Y/98/20/PL). However, it is material that there is an over provision of M4(2) homes across the whole of the development site and on this basis, no objection is raised to this deficiency.

LANDSCAPE, CHARACTER, DENSITY & DESIGN:

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 states development should respect the particular characteristics & natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas. Policy AH SP2 seeks to ensure affordable housing is visually indistinguishable from market housing and layouts avoid large

clusters. The scheme under provides on affordable housing but it noted that the affordable housing is shown in two locations within the site area and that when considering the entire development site as a whole, there are no large clusters.

YNDP policy H1 refers to encouraging small-scale residential developments that are sympathetic to their surroundings and providing well-designed dwellings that are sympathetic to the character of the village. YNDP2 policy H4 encourages high quality & sympathetic design, appropriate density, and sufficient outdoor space. YNDP2 policy E1 (soils) proposes to also include a requirement that development must protect and enhance the character and quality of the Yapton landscape character area.

Section G of the Arun Design Guide suggests a density 15-25 for detached/semi-detached houses & 20-30 for terraced development in village locations but states that density should decrease with distance from the centre of a settlement, to ensure that development relates sensitively to its setting and addresses the edges of the site in a positive way. It states that this is particularly important to development which is adjacent to the settlement particularly when these are open fields. The density of the site area is 33.3 whilst that of the entire development area (which includes the open space) is 22.5. Therefore, the density of the site area is in excess of the guidance.

Section J refers to new building design and states development must ensure existing character and sense of place of an area is respected and enhanced. New development should reflect the scale of existing buildings and avoid shading neighbouring properties. It is important to note that para 134 of the NPPF states that development that is not well designed should be refused.

It is accepted that the road layout, block structure, building heights, house designs and materials are the same or similar to the approved scheme under Y/63/19/RES. Therefore, no concerns are raised with these aspects. However, there are concerns with the increase in the number of dwellings and what this does to the formerly spacious nature of the development layout. The previous density of the site area was 16.7 and this is doubling to 33.3. The original development was envisaged as a low-density urban extension to reflect the semi-rural and historic character of this part of Yapton.

The approach to the approved scheme was carefully negotiated at outline stage with input from the council's heritage advisers. In particular, the scheme was designed to ensure that it would be acceptable in terms of the approach into the village & the Conservation Area (from west to east). Whilst it is true that the site area has no visibility in the Main/Yapton Road streetscene or from nearby heritage assets, the cramped nature of the development will be visible to persons living within the development and for those passing through such as to access the proposed link to adjoining land. The council's landscape officer states that the development layout is cramped and overdeveloped particularly in the north/west corner and that the scheme appears detrimental in design layout to that approved by the existing permission.

Notwithstanding that the layout and block structure is essentially the same, there are some concerns with how the layout works in respect of the relationship of houses to each other and to parking spaces. The parking provision for plots 225-231 is convoluted and may result in conflict between future residents and parking by residents in visitor spaces. The allocated spaces for plots 225/226 are part in front of adjacent properties (227/228) along with two visitor spaces and part in a parking court behind plots 229-231. Plot 226 can walk there by way of a rear gate but plot 225 must go around the frontage and then through an under-croft driveway. Plot 227/228's spaces are in the same parking court accessed by a rear gate and as already stated, the spaces to their frontage are for adjacent properties/visitors. Plot 229/231's spaces are in the same parking court accessed by a gate.

The Design Guide sets out the following recommended interface distances between dwellings: (a) Back-to-Back: min. 21m between habitable rooms of properties or to existing buildings, (b) Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property, (c) Front to Front: min. 16m

between habitable rooms of properties facing each other and (d) Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping. The layout fails to achieve complete compliance with these with the following interfaces in conflict:

- 217 Rear (R) containing first floor (FF) bedroom windows to 215/216 Side (S) containing a FF kitchen window only 11m.
- 211/212 Front (F) containing FF bedroom windows to 210 F containing FF bedroom windows only 13.7m; and
- 214 F containing FF bedroom windows to 207 F containing FF bedroom windows only 15.4m.

The third issue is only very minor and as the Design Guide is guidance not policy, a degree of flexibility is allowed, however the other conflicts are more severe and support the assertion that the development layout is cramped. Furthermore, the rear garden of plot 216 is only 8.9m deep and results in the first floor of this building (which contains two bedroom windows) being 8.9m from the rear garden of plot 218 thus affecting their private amenity space.

The concerns in respect of interface distances and parking all result in situations which will be less than ideal for future residents and potentially harm their amenities. This was not the case with the previous reserved matters scheme and therefore, these issues only arise due to the increase in dwellings thus being a further indicator of the overdevelopment of the site.

The increase in the number of dwellings results in changes to the low-density character of the development and its usability by future residents with harm to their amenities. This results in conflict with ALP policies D DM1 & D SP1, with the NPPF and the Arun Design Guide.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. Policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Council's Design Guide sets out guidance on interface distances between houses (as set out above). Concerns have been expressed above in respect of parking and interface distances and these also result in conflict with policies D DM1 and QE SP1.

QUALITY OF ACCOMMODATION:

ALP policy D DM2 states that internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. The accommodation schedule provides a breakdown of the internal floor areas for all of the dwellings. A sample of the plans have been checked for accuracy with no concerns and the schedule demonstrates 100% compliance. The Arun Design Guide requires rear gardens be a minimum of 10.5m deep and front gardens at least 2m. Flatted buildings should have at least 3m² of private useable space plus communal areas equating to 40m² plus 10m² per flat.

Most of the gardens exceed 10m but are not the full 10.5m as per the Design Guide (plots 206-209, 211-212, 217 & 225). However, this is acceptable as the Design Guide is guidance not policy and allows for flexibility. Furthermore, only one of the instances of a 10-10.5m deep rear garden results in an inadequate interface distance to an existing/proposed dwelling. This being plot 207 which is only 11m from the flank of 216/217 however, the garden depth shortfall is only 0.2m so the interface issue is the result of layout not garden depth.

205's rear garden is only 8.3m deep however there is no facing dwelling to its rear and its garden area is as wide as it is deep (plus has side gardens), so the dwelling has plenty of private amenity space. Plots

215, 216 and 230 are flats and whilst none have the benefit of communal space, all have a private garden space of well in excess of 3m² (117m², 71m², 21m²) so there is no policy conflict. However, it is presently unclear how 230's space will be made private given that it is in the corner of a rear parking court.

WASTE MANAGEMENT:

ALP policy WM DM1 states that new residential development, will be permitted provided that it is designed to ensure that kerbside collection is possible for municipal waste vehicles. There are no relevant YNDP policies. WSCC Highways raise no concerns with refuse vehicles accessing the site from Main Road or turning in the site and it is material that the access is the same as the existing approved scheme. Bin stores and collection points are not indicated and so would need to be controlled by condition. However, there is nothing in the layout to suggest that kerbside collection will not be possible and therefore no conflict with Policy WM DM1.

NOISE, LIGHT & AIR POLLUTION:

ALP policy QE DM1 states that residential development likely to experience noise from roads must (a) be supported by a noise exposure category (NEC) assessment and designed to ensure that residents will not be adversely affected by noise; and (b) consider both the level of exposure at the time of application and any increase that might be reasonably expected in the near future.

Policy QE DM2 states new outdoor lighting should not have any adverse impact on neighbouring uses or the wider landscape, particularly with regard to the South Downs International Dark Sky Reserve designation. Light levels should be the minimum required for security and working purposes.

Policy QE DM3 states all major development must assess the likely impacts of the development on air quality and mitigate any negative impacts by ensuring that development is accessible by public transport, by foot & cycle, installing electric charge points and improving the local highway network. The NPPF states air quality must be considered at the design stage and incorporate appropriate and effective mitigation (so cannot be reserved to condition).

The environmental health officer (EHO) raises no objections in respect of noise pollution from the new dwellings to existing surrounding residents. Conditions are recommended to ensure the new dwellings are not adversely affected by any nearby sources of noise but there are no particularly noisy uses nearby whilst road speeds on Main Road are generally low in this location due to it being on the edge of the settlement. The EHO raises no concerns regarding light pollution and that this can be controlled by condition (the council's ecologist also requests a condition but to protect bats not residential properties).

The EHO does request consideration be given to air quality issues. The site is not near to any designated Air Quality Management Area therefore there is no requirement under QE DM3 for an air quality assessment. However, in response to the remainder of policy QE DM3, the site is accessible by public transport and the occupiers can walk or cycle to access local shops, facilities & services. The proposal includes pedestrian connections onto Main Road and should also facilitate a future link to adjacent development to the north (though this is not indicated on the proposed layout) thus potentially providing alternative & safer access to the primary school and to North End Road. Conditions would also be used to secure electric vehicle charge points. There are no conflicts with relevant policies.

SURFACE WATER DRAINAGE:

ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SuDS) as appropriate to the size of development. Policy W DM1

seeks to protect existing water supplies from foul & surface water discharges. YNDP Policy E11 requires developments be designed and constructed to minimise the overall level of flood risk in the parish; and provide appropriate surface water drainage.

The applicant provided a Flood Risk Assessment incorporating a drainage strategy. The latter proposes infiltration to ground with permeable paving and underground storage provided to accommodate a 1:100-year storm event with an additional 40% to account for the predicted effects of future climate change. The surface water scheme includes mitigation to ensure surface water is suitably treated and so any pollution risk is adequately managed prior to discharge.

The council's drainage engineer comments that no data has been supplied from 1 in 10 years plus 40% climate change rainfall events to demonstrate that incoming invert levels to sub-bases are above the water level. Furthermore, the factors of safety applied to calculations are lower than the council's requirements. However, it is stated that these issues can be resolved at a later date by planning conditions and so no objection is raised. Therefore, there are no conflicts with the relevant policies.

FOUL DRAINAGE:

The site is within the Lidsey Treatment Catchment Area designation and ALP policy W DM1 requires that a drainage impact assessment is provided. This is required to assess the cumulative impacts of surface & foul drainage, how these can be safely disposed of and their impact on flood storage capacity and flows resulting from the Lidsey treatment works during times of flood. Policy W DM1 also requires that all major developments demonstrate that adequate foul drainage capacity exists, can be provided as part of the development or that facilities can be upgraded prior to the completion and occupation of development.

The application proposes to connect to the existing main sewer which runs underneath Main Road (discharging to it using a gravity fed system). Southern Water have stated that they can facilitate foul sewerage disposal for the site. However, the applicant has not submitted a drainage impact assessment as required by W DM1 and so there is a policy conflict. It is material that the previous planning permission was approved without this assessment however, this application proposes an additional 16 dwellings, representing a significant increase in numbers and so the policy conflict cannot be outweighed by the previous approval. Whilst this policy conflict is minor, it is also material that it was included as a refusal reason on the refusal of Y/98/20/PL and has not been addressed through this application.

BIODIVERSITY:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. YNDP policy E3 seeks to prevent loss of natural habitat except where mitigation measures ensure the integrity of the habitat or where the habitat is relocated to a site within 500m of the existing. Emerging YNDP2 policy E5 sets out a requirement for biodiversity net gain.

The submission includes an "Ecological Update Survey & Mitigation Strategy" (August 2021) and an "Ecology Mitigation Strategy Addendum" (November 2021). The latter specifically addresses a proposal for an extra 17 (16 is now proposed) units on the site and states no additional significant impacts are predicted on the features identified in the original ecological impact assessment and mitigation. As such, no additional mitigation measures are proposed and the existing ecological mitigation strategy and proposed habitat retention and creation as well as mitigation method statements for protected species are stated to still be valid for the re-plan application.

The council's ecologist has not raised any objections provided conditions are imposed to ensure that various mitigation measures are adhered to. The ecologist considers the measures set out in the

Mitigation Strategy are such that the application demonstrates biodiversity net gain.

The development as a whole required the felling of two trees and the removal of a small section of hedgerow which have already happened. This proposal generates no new loss of vegetation (other than tree pruning as set out below). These works are more than compensated for by the planting of 84 new trees across the site as a whole (with 32 of these being new fruit trees in a small orchard in the Public Open Space area within the wider site area). Some of the new trees are sandwiched between areas of hardstanding and these may not be practical in the long term but overall, there is a clear net gain in terms of new vegetation. Existing natural boundaries and important trees are retained. The proposal complies with ALP policy ENV DM5 and YNDP policies E3 & E4.

TREES:

ALP policy ENV DM4 states TPO protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity are not damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. YNDP policy E4 states development sites should retain well-established features of the landscape, including mature trees and species-rich hedgerows. New tree planting will be required to mitigate any significant loss. Emerging YNDP2 policy E4 requires that native tree species be used.

The proposal does not require the felling of any additional trees (beyond those consented by Y/63/19/RES). The only change is the proposed pruning back of the canopy (by 1.5m) of part of the tree group on the north-west boundary to give a 2.5m clearance above 215's garden area.

The council's tree officer responded to Y/63/19/RES and stated approval could be given subject to conditions but has not provided any comments on this new application. Noting the similar layout, the relatively minor pruning proposal and in the absence of an objection from the tree officer, no objection should be raised, and the proposal is in accordance with the relevant policies.

ENERGY AND CLIMATE CHANGE:

ALP policy ECC SP2 requires new residential and commercial development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. ECC SP1 requires new development be designed to adapt to impacts arising from climate change and all major developments must produce 10% of total predicted energy requirements from renewables unless unviable. Emerging YNDP2 policy H5 supports development which meets the highest possible standards of environmental and energy efficiency.

The application is not accompanied by details of any measures to respond to climate change however it is appropriate to reserve such details to be agreed through planning conditions and on this basis, there is no conflict with the relevant development plan policies. It is also material that the previous reserved matters determination (Y/63/19/RES) took the same approach and imposed a planning condition.

TELECOMMUNICATIONS:

ALP policy TEL SP1 and YNDP policy BE2 state all proposals for new residential, employment and commercial development must be designed to be connected to high quality communications infrastructure. This policy could be resolved through a suitable condition.

AFFORDABLE HOUSING:

Developments over 11 residential units require a minimum provision of 30% affordable housing on site

as per ALP policy AH SP2. The Council recently adopted an interim affordable housing policy which sets out the need to secure first homes as part of the affordable housing mix. As at March 2022, there were 1299 households in housing need on the Council's housing register.

The application proposal includes only 6 affordable dwellings which represents 18.7% of the total and so is in conflict with policy AH SP2. The council's housing strategy and enabling manager therefore objected to the proposal and requested that a policy compliant 9 affordable homes be provided. However, it is material that this site is part of a wider site which overprovides for affordable housing. The other parts of the development area provide 16 affordable dwellings representing 40% of the total and so overall, there would be provision of 30.5%. Therefore, no objection is raised to this deficiency. However, as is discussed at the end of this report, there is currently no mechanism in place to secure the 6 affordable dwellings that are proposed.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision. In addition, policy HWB SP1 seeks to ensure that new development is designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities.

In respect of the proposal for 32 dwellings, the Council's SPD (Open Space, Playing Pitches, Indoor and Built Sports Facilities) sets out an overall requirement of 2640m² of Public Open Space (POS) including 387m² of play provision. Alternatively, the requirement for an extra 16 is 1,320m² POS including 194m² of Play. The council's landscape officer initially raised an objection due to there being no new provision of either but then withdrew this following information from the applicant, which demonstrated that site-wide, the overall development provides for 6,684m² of POS which is in excess of the requirement for 72 dwellings (5,069m²).

There is conflict with the policies in that in the application site area, no open space is shown but it is material that this site is part of a wider site which overprovides for open space and no objection is raised to this deficiency.

SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 requires development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and the existing community. The 32 dwellings sought by this application would be liable for CIL with an amount of £258,005.75 payable subject to any relief claimed.

Where CIL is applicable, it is only possible to use s106 agreements to require affordable housing (as discussed above), on-site mitigation and contributions to mitigation of impacts on the strategic road network (National Highways have not requested such for this application). The infrastructure needs of the application would be met by CIL.

RELATIONSHIP OF THE PROPOSAL TO THE HOST APPROVAL:

The re-plan relates to a site with an outline permission granted prior to the introduction of the CIL charge in Arun. However, the s106 and CIL regime are two separate processes. A new s106 Agreement would be required to deal with the provision of the 6 additional affordable houses within the re-plan area but there would also need to be changes made to the existing s106 to reduce the previous infrastructure contributions to account for the fact that 16 previously approved dwellings are now to be subject of CIL. The existing s106 also includes triggers for the payment of the infrastructure contributions and the

completion of the affordable housing which is based on the original permitted number of dwellings and includes 16 within this re-plan area. This then creates conflicts between the existing s106 and a new s106 for the re-plan area.

The Local Planning Authority would not be able to confirm which permission related to which part of the site and it would be difficult to confirm whether triggers on the original s106 had been met. The unintended consequence of the re-plan application is that with respect to the 16 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 (56 dwellings) in addition to CIL in relation to the re-plan scheme (32 dwellings). If the situation was left unchecked there would be an artificially inflated infrastructure liability across the whole 72 dwelling development.

It is the Local Planning Authority's view that an applicant cannot amend an existing s106 on an application for a different site; cannot enter into a s106 for infrastructure contributions & require CIL at same time; and there would need to be a separate application alongside this one to vary the existing s106 or a new full application submitted for the whole area (as per Y/98/20/PL). It should be noted that the applicant was advised at pre-application stage that:

"Any future application must demonstrate how the necessary infrastructure can be provided through a combination of s106 and CIL taking account of the s106 attached to the outline permission. The question of whether we can accept a partial re-plan application or a full (application) is whether you can implement the two permissions side by side. If there are issues with the relationship of s106 and CIL, then this suggests that you cannot develop side by side and so you would need to submit a full application. You cannot amend the original s106 through a partial re-plan that would now be subject to CIL and would therefore be hit by CIL and the original s106. We need to have certainty of when a trigger in the s106 is reached and the act of implementing two different permissions makes this impossible."

And:

"Should you consider it appropriate to submit a partial re-plan application then I would recommend that you seek your own legal advice and the application be accompanied by a statement setting out how the two permissions can be implemented together and how the conflicts between the existing s106, and CIL can be resolved. However, it is our view that a full application for XX dwellings would be the most appropriate course of action and that this could then be accompanied by a Deed of Variation to the original s106 with the other infrastructure requirements then being secured by CIL."

Notwithstanding this advice, the application was not accompanied by any such statement or legal advice, and it was not until the case officer raised this with the applicant in response to the affordable housing consultation (objection) that submissions were made to attempt to deal with the conflicts and to argue that the council's position is incorrect. Although no statement has been provided to set out how the two permissions can be implemented together, a legal opinion has been supplied which states "Seawards has taken great care to design the Phase 2 Application to ensure both that it fits with and integrates seamlessly into the wider development authorised by the Original Permission, as amended, and that it follows the delivery of the retained part Original Permission in the build programme."

The legal opinion suggests that there are two options for resolving the conflicts between s106 and CIL: either (1) entering into a Deed of Variation to the Amended Agreement or (2) entering into a 'composite' agreement that replaces the Amended Agreement entirely. The applicant also maintains that a Deed of Variation can be applied through the re-plan application although they also offer two further options for consideration:

(a) a composite s106 to supersede the existing agreement and include additional obligations for the re-

plan element (Phase 2); or (b) the applicant client implements up to the 24th dwelling of the approved permission under the existing s106 agreement and ceases development at that point. A subsequent application for the additional houses in Phase 2 would then be submitted with its own legal agreement and CIL obligations.

Notwithstanding, the council maintains its view that an applicant cannot amend an existing s106 on an application for a different site (or for a part of the original area) as the Local Planning Authority cannot have a situation where an application is subject to a s106 referring to infrastructure contributions (i.e., a reduction of the existing) and is also subject to CIL at the same time. The applicant was requested to either submit a Planning Obligation (PO) application to vary the existing s106 and to run alongside the current application or to submit a full application for the entire site (as per the previous refusal) and vary the existing s106 at the same time. Notwithstanding, due to other concerns with the proposal, it has not been appropriate to further explore these options.

SUMMARY & TILTED BALANCE:

As the Councils HLS is below 3 years the application would fall to be determined by the NPPF presumption in favour of sustainable development. This states at 11 (d) (ii) that 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 any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

There is no objection to the principle of development as the site lies in a sustainable location within the built-up area boundary and is a part of an existing consented residential development site. However, the proposal seeks to increase the number of dwellings in the site area by 16 and this assessment identifies harm arising from this, to the character of the area, to the amenities of future residents and the housing needs of the district. The scheme also omits a previous proposal to safeguard a link into adjacent land to facilitate an alternative foot/cycle route through consented development. There is also a minor policy conflict in respect of drainage. Finally, there is no agreed method to resolve the conflicts between the existing s106 and the need to secure more affordable housing and to require CIL payments.

Despite the benefits of an extra 16 dwellings and acknowledging the level of the Councils current HLS shortfall, the adverse impacts are significant and will demonstrably outweigh the benefits such that the application should be 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.

CIL DETAILS

This is a CIL Liable development. It is in Zone 2 and a CIL amount of £258,005.75 would be payable on the 32 dwellings unless the applicant applies for exemption subject to the requirements of the CIL Regulation 2010 (as amended). Yapton Parish Council would receive a 25% proportion of the total.

RECOMMENDATION

REFUSE

- 1 The proposal constitutes an over-intensive use of the site and an unsatisfactory form of development resulting in harm to the historical & low density character of this edge of settlement location and the amenities of future residents. This is borne out by the increased site density, the relationship of houses to each other, of parking spaces to dwellings and interface distances between buildings. The proposal is therefore in conflict with Arun Local Plan policies D SP1, D DM1, LAN DM1 & QE SP1, the NPPF and the Arun Design Guide.
- 2 The layout fails to show the safeguarded area on the north eastern boundary that was shown on the layout approved by Y/63/19/RES or to indicate how a path link will be created in that area to ensure a connection via the adjoining agricultural track into the adjacent Stakers Farm development. The proposal therefore fails to meet the aims of Arun District Council and Yapton Parish Council in securing an alternative route for pedestrians and cyclists around the western edge of Yapton and is in conflict with policies T SP1 & T DM1 of the Arin Local Plan and the NPPF.
- 3 The proposal fails to achieve an appropriate housing size mix resulting in harm to the future provision of housing to cater for specific needs of the district in conflict with policy H DM1 of the Arun Local Plan and policy H2 of the Yapton Neighbourhood Development Plan.
- 4 The proposal generates a requirement for additional affordable housing and CIL contributions but the site is already subject to a section 106 legal agreement which cannot be amended through a deed of variation on the current application. There is thus a conflict between the infrastructure requirements of the current application and the infrastructure (including affordable housing) that has already been secured on the site with no method to secure the requirements or resolve the conflict with the existing agreed provisions. The proposed re-plan is therefore contrary to Policy INF SP1 and AH SP2 of the Arun Local Plan and the NPPF as it would not meet the needs of future occupiers of the development and the existing community.
- 5 Insufficient information has been provided to enable the Local Planning Authority to assess the impact of the development on the ability of the foul sewerage network to accommodate surface and foul water flows from the development resulting in harm to the amenities of local people due to flooding and is therefore in conflict with policy W DM1 of the Arun Local Plan.
- 6 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. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.