

Recommendation Report for Planning Permission

REF NO: Y/57/21/PL

LOCATION: Sunnymead
North End Road
Yapton
BN18 0DL

PROPOSAL: Demolition of existing dwelling and outbuildings and erection of 5 dwellings comprising 2 No 4 bed houses & 3 No 3 bed house (resubmission following Y/33/20/PL). This site is in CIL Zone 3 & is CIL Liable as new dwellings. This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The proposal is for three detached two storey dwellings to the North End Road frontage and a pair of two storey semi-detached dwellings set further back slightly forward of the footprint of the existing dwelling. The centre of the site is predominantly covered by 11 parking spaces & turning space with access via a short 5.2m wide drive from North End Road. The access is to be widened/moved to the south and provided with new radii.

The layout plan indicates bin storage spaces, a bin collection point and cycle stores in the individual gardens (but there are no elevations of the latter). It is proposed that refuse be collected at the kerbside as per the existing situation. Part of the site in the north east corner will be left natural. The Design and Access Statement indicates a 2.5m wide buffer will be provided to the railway line with 1m wide buffers to the eastern and southern boundaries.

The houses have pitched roofs & chimneys and are to be constructed using clay tiles/slate, brick, painted brick, flint and oak posts. Solar panels are shown to the roofs. The frontage hedgerow will be retained as will the category A Walnut tree in the north east area of the site.

SITE AREA 0.3 hectares.

RESIDENTIAL DEVELOPMENT 17 dwellings per hectare.

DENSITY (NET)

TOPOGRAPHY Predominantly flat with areas of gentle slopes, including large low area to north west of site.

TREES The site includes shrubs, hedgerow and various category A - C rated trees, including mature established Category A trees and a substantial Walnut Tree in the north east corner of site.

BOUNDARY TREATMENT	Boundaries mainly vegetative, with brick and flint wall to part of western boundary fronting onto North End Road and southern boundary adjacent to access track and Apple Tree Cottage.
SITE CHARACTERISTICS	Detached bungalow, gardens to the front including a swimming pool, storage outbuilding and dilapidated polytunnel/greenhouse. Largely hidden from view from North End Road by vegetation to the frontage.
CHARACTER OF LOCALITY	Semi-rural character, with fragmented residential ribbon development on this part of North End Road, broken up by undeveloped/agricultural fields, and the railway line directly to the north of the site. Beyond this to the north is open countryside. Immediate properties are mainly 2 storey, detached, semi-detached and terrace, with mix of brick, brick & flint and render elevations, tile and thatch roof. No prevailing uniform character, but this part of the road is mainly character cottages in a semi-rural setting.

RELEVANT SITE HISTORY

Y/33/20/PL	Demolition of existing dwelling & outbuildings & erection of 7 No. dwellings comprising 3 No. 4 bed houses, 1 No. 3 bed house & 3 No 2 bed houses. This application is a Departure from the Development Plan.	Refused 20-05-20
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Application Y/33/20/PL was refused on 20/05/20 for the following reasons:

(1) The site lies in a countryside location outside the defined Built-Up Area Boundary of Yapton and the proposal, which would reinforce existing ribbon development and due to its layout appear prominent and incongruous, would erode the existing intrinsic character of the countryside and harm the visual amenity of this semi-rural area. The proposal is contrary to the National Planning Policy Framework, Policies SD SP2, C SP1, D SP1, D DM1 and LAN DM1 of the Arun Local Plan (2018) and Policies H1 and BB1 of the Yapton Neighbourhood Plan (2014).

(2) There has been a failure to demonstrate the development would not suffer flood risk or increase flood risk elsewhere, contrary to the requirements of the National Planning Policy Framework (2019), policies W DM2 and W DM3 of the Arun Local Plan (2018) and policy E11 of the Yapton Neighbourhood Plan (2014).

(3) There has been a failure to demonstrate protected species would be adequately protected, as required by legislation and policy ENV DM5 of the Arun Local Plan (2018) and policy E5 of the Yapton Neighbourhood Plan (2014) causing harm to biodiversity.

(4) There has been a failure to demonstrate trees and hedgerows on the site would be adequately protected from the development, contrary to the requirements of policy ENV DM4 of the Arun Local Plan (2018) and policy E4 of the Yapton Neighbourhood Plan (2014).

REPRESENTATIONS

Yapton Parish Council raise objection on the grounds of:

- Outside BUAB and not a housing land allocation;
- Site opposite rejected as unsuitable for housing by Neighbourhood Plan Examiner due to distance from the village/unsustainable location;
- Appears incongruous and incompatible in density and scale for the development;
- Loss of trees;
- Strong concerns about highway safety due to the site access in close proximity to the level crossing;
- Condition required to prevent occupation unless A27/Yapton Lane junction improvement works are completed.

No letters have been received from local residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and will be discussed in the conclusions. As Highways England have not requested any conditions related to the A27 junction, it is not appropriate to impose this restriction.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND - no objection and recommend no conditions. State that the trips generated would not materially affect the safety, reliability and/or operation of the strategic road network (A27).

NATURAL ENGLAND - no objection. Based on the plans, the development will not have significant adverse impacts on statutorily protected nature conservation sites such as the Arun Valley IRZ.

NETWORK RAIL - no objection, require the applicant/developer contacts Network Rail prior to commencing.

SOUTHERN WATER - no objection, drawings show a 3m easement to the public sewer that crosses the site.

WSCC HIGHWAYS - no objection subject to conditions to secure construction of the access, construction of the parking & turning areas, a construction management plan and full details of secure cycle storage. Comment that site access, trip generation, parking provision and refuse arrangements are all acceptable. Do not raise any concerns in respect of the proximity to the level crossing.

ADC LANDSCAPE - no objection subject to a conditions to secure details of landscaping and biodiversity net gain. No requirement for on-site play/open space. Also comment that the proposals would affect the streetscene and have the potential to significantly change the existing plot & setting.

ADC ENVIRONMENTAL HEALTH - no objection subject to planning conditions concerning contaminated land, electric vehicle charging, external lighting, construction hours and noise.

ADC DRAINAGE - objection. The applicant has not satisfactorily addressed previous concerns/refusal reason. The concerns are detailed in the full response on the website (01/07/21) but in summary:

- The three detached dwellings are in a low part of the site (also a low part of the wider area) known for

surface water flooding. To combat this levels are to be raised and flood storage provided in the parking area but this will not be deep enough to store flood water;

- This will result in flood risk elsewhere and allowing the parking area and rear gardens to flood to up to 0.45m is not safe or sustainable development;
- It is impossible to know if storage can be provided below ground as winter infiltration testing & groundwater monitoring has not been provided;
- The proposed finished floor levels are too low - they should be 300mm above 4.25m AOD (not 4/4.35m as shown on the conceptual drainage strategy drawing in the drainage report);
- No evidence that sequential or exception tests have been carried out; and
- The 3D images do not appear to reflect level changes proposed within the Drainage Strategy Report.

ADC TREE OFFICER - objection - changes are required to the Arboricultural Impact Assessment & Method Statement (AIA&MS) in the interests of respecting & protecting important trees. There is no evidence of ambitious landscaping to demonstrate biodiversity net gain when compared to the trees/vegetation to be lost. With no agreed drainage scheme, there may be further impacts on trees to be retained. Requires a TPO be served on the Walnut and Maple Trees in the north east corner.

COUNCILS ECOLOGIST - the preliminary roost assessment undertaken in 2018 has not shown the trees were assessed therefore require a roost assessment before trees are felled. Otherwise recommends conditions in respect of lighting, protection/enhance of hedges, bat bricks, protection of breeding birds, reptile mitigation, use of a precautionary approach re Great Crested Newts, protection for hedgehogs, sustainability measures and biodiversity net gain.

COMMENTS ON CONSULTATION RESPONSES:

All comments noted except where indicated below.

ADC TREE OFFICER - the Tree Officer's requirements could be secured through conditions to (a) secure changes to the AIA&MS, (b) secure a landscaping scheme worded so as to specifically require new tree planting on a 2:1 basis to compensate for that to be lost (or justification to be provided if this is not achievable); and (c) to secure a drainage scheme (subject to resolution of the drainage objection). The TPO request will be actioned in due course.

COUNCILS ECOLOGIST - The request for details of sustainability measures is justified with regard to Local Plan policy 40 but this is a policy within the Chichester Local Plan (Key Policies 2014-2029) and does not apply to Arun. The protection of birds nest is covered by separate legislation so it would not be appropriate to impose a condition. In respect of biodiversity net gain, it is noted the Ecological Impact Assessment states a drawing has been produced to illustrate the enhancements but in practice, this is missing from the submission. This could be subject of a condition. It would not be appropriate to condition the requirement for bat roost surveys of trees as the impact on protected species must be assessed prior to determination.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary (BUAB);
Within Arun Valley Impact Risk Zone 2;
Lidsey Water Treatment Works Catchment Area;
Area of Special Control of Adverts;
Current & Future Flood Zone 1 (Pluvial/Fluvial); and
Surface Water Flood Zones (1:30, 1:100, 1:1000 scenarios).

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HDM1	H DM1 Housing mix
HSP1	HSP1 Housing allocation the housing requirement
HWBSP1	HWB SP1 Health and Wellbeing
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
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TELSP1	TEL SP1 Strategic delivery of telecomms infrastructure
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

Yapton neighbourhood plan 2014 Policy BB1

Yapton neighbourhood plan 2014 Policy E1	Built-up Area Boundary
Yapton neighbourhood plan 2014 Policy E3	Protection of high value agricultural land
Yapton neighbourhood plan 2014 Policy E4	Protection of natural habitats
Yapton neighbourhood plan 2014 Policy E5	Minimising the environmental impact of development
Yapton neighbourhood plan 2014 Policy E11	Enhancement of biodiversity
Yapton neighbourhood plan 2014 Policy H1	Minimising the impact of flooding from development
Yapton neighbourhood plan 2014 Policy PK1	Housing requirement
	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:

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 of the Yapton Neighbourhood Development Plan (YNDP) have been considered within this report. Yapton are currently working on a revised NDP and have recently completed a regulation 14 consultation. However, it is considered that the emerging Plan can be attributed only limited weight at this time.

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 fails to comply with relevant Development Plan policies in that it will result in harm to the character of the countryside, landscape and visual amenity of the area, it fails to demonstrate that the development would not suffer from flood risk or increase flood risk elsewhere and it fails to demonstrate that there will be no harm to any bats using those trees to be removed..

OTHER MATERIAL CONSIDERATIONS

It is considered that there are 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 applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Arun Local Plan 2011-2031 (ALP), the Yapton Neighbourhood Development Plan (November 2014) (YNDP), the South Inshore & South Offshore

Marine Plan and the West Sussex Waste and Minerals Plans.

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 Yapton Neighbourhood Development Plan (2014) and the Arun Local Plan (2018), should therefore be resolved in favour of the latter.

Some of the most relevant policies in the ALP including those have reduced weight as Arun cannot demonstrate an adequate supply of housing land (3.3 years). Similarly, some policies in the Yapton Neighbourhood Development Plan (policies BB1 & H1) have even less weight because they relate to out of date housing needs, as the policies were based on the 2003 Local Plan.

Paragraph 14 of the NPPF states in situations where the 'presumption in favour of sustainable development' applies to applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan will not significantly and demonstrably outweigh the benefits if four specific criteria apply. In this case, criteria (a) to (d) are not all applicable because the Neighbourhood Plan was made over two years ago. The presumption in favour of sustainable development is unaffected by the Neighbourhood Plan.

The Arun Local Plan (ALP):

Policy H SP1 "The Housing Requirement" sets out an overall provision of 20,000 new homes through the Local Plan phased over the plan period to 2031. It includes reference to additional non-strategic allocations being made across the District through reviews of Neighbourhood Plans and in cases where there is no up-to-date Neighbourhood Plan, through the publication of a "Non-Strategic Site Allocations Development Plan Document". It is no longer planned to prepare such a document and instead the Local Plan will be subject to a formal review. The proposed review of the YNDP states the Parish's housing requirement has been met by previous permissions and so it does not seek to allocate more housing land.

Policy SD SP1 "Sustainable Development" states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will work to secure development that contribute to the social, economic and environmental conditions south of the National Park through to the coast and throughout its settlements (both coastal and inland). Sustainability is considered elsewhere in this report.

Policy C SP1 (Countryside) states residential development in the countryside outside the BUAB will not be permitted unless in accordance with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal and the site is clearly outside of the BUAB of Yapton. Therefore, the proposal conflicts with ALP policy C SP1.

The Yapton Neighbourhood Development Plan (YNDP):

The YNDP was made in November 2014 on the basis of the saved policies in the 2003 Arun Local Plan and the draft policies in the 2014 publication version of the then emerging Arun Local Plan.

Figure 4.1 on page 13 of the YNDP includes a BUAB drawn round the edge of the settlement of Yapton which, save for proposed allocations within the YNDP, broadly compared with that provided by the 2003 Local Plan. The BUAB in the ALP is different having been amended to include Yapton strategic allocation SD7 and other recently approved development sites in the area. Nevertheless, the application site remains outside of the BUAB and is classified as countryside.

Policy BB1 states development outside of the BUAB will not be permitted unless in accordance with 4 listed criteria. Criteria 1-2 & 4 are not relevant to the proposal but number 3 is where the development relates to additional allocations for housing land in accordance with policy H1.

Policy H1 allows for a buffer of up to an additional 20% of the ALP housing requirement of 100 dwellings for the Yapton Neighbourhood Plan area. This 20% has been achieved through applications such as Y/1/17/OUT (56 dwellings), Y/44/17/OUT (70 dwellings), Y/49/18/PL (10 dwellings), Y/49/17/OUT (45 dwellings), Y/80/16/OUT (100 dwellings) and Y/83/19/OUT (33 dwellings).

Above and beyond this 20%, the policy states any further housing development will only be permitted if it can be demonstrated that either the expected child yield would not result in the Yapton CE Primary School exceeding the maximum number of children permitted or that appropriate modifications and/or extensions to the School can be delivered at the developer's expense. The applicant has not provided any justification in respect of this matter. Any approval of this development would be subject to a CIL contribution but there is no certainty that such money would be spent improving the Yapton Primary School. Therefore, the proposal is in conflict with policy H1.

The National Planning Policy Framework (NPPF):

The NPPF (July 2021) is an important material consideration in determining planning applications. As discussed below, under "Other Material Considerations", the Council cannot demonstrate a 5-year Housing Land Supply (HLS) and paragraph 11 (d) of the NPPF and the application of the 'presumption in favour' of sustainable development is triggered.

This means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (such as where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), planning permission should be granted unless (i) 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 (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

There is no question that (i) does not apply to this determination as the site does not lie in a protected landscape and is not or near a protected heritage asset that would be significantly affected. The part (ii) test, adverse impacts, will be considered at the end of this report.

Paragraph 117 of the NPPF states that decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment, and policies should make as much use as possible of previously-developed or 'brownfield' land.

Other Material Considerations:

The following sets out whether there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

On 12 February 2020, following appeal APP/C3810/W/19/3236911 a Planning Inspector considered the authority was able to demonstrate a 2.9 years HLS. In December 2020 the Council republished its Authority Monitoring Report (AMR) for 2019/20 and this states that the HLS has increased to 3.3 years.

In February 2020 the government published Arun's Housing Delivery Test (HDT) result for November 2019. The HDT was 68% triggering the application of a 20% buffer to be included in the calculation of the

authorities 5-year HLS. The HDT results for 2020 were published on 19 January 2021 and show that Arun achieved 61% thus triggering the application of the presumption in favour of sustainable development (although this was already being applied due to the HLS shortfall).

The Council's Action Plan (June 2019) made a series of recommendations to boost housing delivery. This includes relying on the 'presumption in favour of sustainable development' until such time as the 5-year housing land supply is re-established and the HLS is progressed through plan making. It recommended the Council consider inviting applications from landowners/developers on 'deliverable' HELAA sites to re-establish the 5 year housing land supply.

This site (NEWY24) is shown in the 2020 HELAA and considered to be not currently be developable. The HELAA states that a very similar site across the road was dismissed on appeal because the development would not comply with development plan policies and it would not represent sustainable development as its too far from the village centre.

In this appeal decision (Y/12/15/PL concerning 4 houses), the Inspector stated due to the location of the site, the occupiers of the new houses would be highly reliant on private vehicle use. The Inspector stated the proposal would reinforce existing ribbon development in this part of the parish with little prospect of achieving sustainable, well planned development. The Inspector concluded the development would not comply with development plan policies and would not represent sustainable development as sought by the NPPF

In February 2021, Arun published an Interim Policy Statement for Housing Delivery. This is not policy but it meant as a guide for developers proposing development on sites outside the BUAB and to inform planning decisions. It is stated to only apply to sites adjacent to settlement boundaries and so would not apply to this site, therefore is not considered relevant in respect of the identified policy conflicts.

Conclusion on Matters of Principle:

The principle of residential development is contrary to policies in the development plan. However, it is not justifiable to refuse applications on grounds of being in the countryside unless there is corresponding harm associated with the location. The policies of the ALP and YNDP that relate to the housing have reduced weight due to the Council not being able to demonstrate an adequate supply of housing land.

This application should not be determined as being unacceptable in principle unless there is corresponding harm to the countryside, and then, crucially, whether the proposal represents sustainable development and whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

AGRICULTURAL LAND:

ALP policy SO DM1 states unless land is allocated, then the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless the need for the development outweighs the need to protect such land in the long term. The policy also requires certain supporting documents (criteria d-f) however, the policy preamble states that this requirement is only for sites of greater than 1 hectare which this is not. YNDP policy E1 states that permission will be refused for development on grade 1 and grade 2 agricultural land, unless it meets certain tests in respect of housing land allocations.

A review of the DEFRA land classification mapping and Arun Soils Study (2013) suggest that the land is unclassified (i.e. not Grades 1-5) or may potentially fall in Grade 3a. Since the mapping available is not entirely clear that this land is Grade 3a, and given that Grade 3a land is on the lower end of the spectrum

of quality, and taking account of the provision of 5 new homes, the need for new housing is considered to outweigh the need to protect this land, and any conflict with ALP policy SO DM1 would not justify a refusal on this basis. There is a dwelling on the land which impacts on soil quality.

TRAFFIC, ROAD SAFETY & PARKING:

Policy T SP1 of the ALP relates to congestion, climate change and access and requires that development 'provides safe access on to the highway network'. ALP policy T DM1 (a), supports development which is designed to reduce the need to travel by car, and requires new development to be located within easy access of established public transport services.

YNDP policy PK1 sets out minimum standards for off-street parking for residential development. For 2 and 3 bed houses this is 2 spaces and for 4+ houses this is 3 spaces. Arun District Council has a Parking Standards SPD (adopted Jan 2020) which supersedes Parish requirements.

Paragraph 110 of the NPPF states that 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. Paragraph 111 of the NPPF states that: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe".

It is proposed to widen and slightly relocate the access to the south and provide it with new radii. Unlike the previous application, no new footway, tactile paving or visibility splays have been indicated. In addition, there is no information on trip generation but given the size of the development, WSCC Highways expect to see around 3 x two-way vehicle trips in the peak hours and it is stated this would not have a significant impact. Highways England confirm the trips generated would not materially affect the safety, reliability and/or operation of the A27.

The Arun Parking SPD requires 2 allocated spaces each (10 spaces) plus 1 visitor space. The layout meets this by providing 11 parking spaces. In terms of cycle storage, the requirement is for 2 cycle places per dwelling. The layout shows a cycle store but there are no elevations therefore a condition would be required to secure full details. The layout shows that spaces would be provided with an active electric vehicle charging points

There is a concern with the layout in that the parking spaces for plots 1 & 2 are not convenient as they are to the rear and there is no direct access from their rear garden, requiring occupants to walk around from the front door. It is not possible to park on the road to the front due to waiting restrictions so this will not encourage on-street parking. The proposal could be easily amended to requires gates in rear gardens to ensure more direct access. This could be achieved by a condition.

WSCC Highways conclude the proposal would not have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the NPPF (paragraph 109), and there are no transport grounds to resist the proposal. The proposal complies with the relevant development plan policies.

CHARACTER, DESIGN & VISUAL AMENITY:

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including; character, attractiveness, innovation, residential amenity impact, adaptability, density, scale, trees and crime prevention. New buildings should be harmonious with their surroundings and successfully integrate with the existing surrounding environment.

ALP policy LAN DM1 states that development should respect the particular characteristics and natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas. Supporting text to YNDP policy H1 refers to meeting housing needs by; 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.

The National Design Guide is a material consideration. It 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. It sets out ten characteristics of beautiful, enduring and successful places: Context, Identity, Built Form, Movement, Nature, Public Spaces, Uses, Homes & Buildings, Resources and Lifespan. Paras 130 and 174 of the NPPF seek to protect and enhance local character.

The Arun Design Guide suggests a density of 15-25 for detached/semi-detached houses in village locations but 5-15 for rural settlements. It states density should decrease with distance from the centre of a settlement, to ensure development relates sensitively to its setting and addresses edges of the site in a positive way. The density of 17 dwellings per ha is acceptable. It is noted the applicant does not respond to either the National or Arun Design Guides.

It is acknowledged the applicant made changes to the proposal since the refusal namely a reduction in the number of houses by 2, the change from a terrace along the North End Road frontage to detached dwellings and an overall reduction in developed area. It is now proposed to retain the hedge on the frontage, the group of trees in the north east corner and also to plant 3 trees along the frontage. These changes are positive and landscaping changes to the frontage help to soften the development.

The character of the area is a pattern of linear 'ribbon' development along the east/west sides of this section of North End Road fragmented by agricultural land. The site is garden to Sunnymead Farm House and primarily screened with hedging/trees with agricultural land to the rear. The site provides a physical and visual gap in the built form and a degree of greenery at this point on the road.

In a dismissed appeal in 2015 for the coal yard site opposite (Y/12/15/PL), the Inspector described this part of North End Road as having a semi-rural character and appearance. The Inspector concluded the development would add to the ribbon effect of development on the road and erode the semi-rural character of the local area, contrary to policies seeking to protect the countryside for its own sake.

Although there are no concerns with the scale, pitched roof form, building line & general design/materiality, the proposal has the appearance of a small housing estate with a more suburban feel, failing to reflect the characteristics of the semi-rural character of this area and despite the landscaping changes, it would not be sympathetic to its surroundings. The buildings fail to have a harmonious appearance with their surroundings and successfully integrate with the surrounding environment.

The loss of the gap in the built form and loss of significant greenery on this section of North End Road would create a continuation of the existing ribbon development up the railway line, would result in an erosion to the semi-rural character of the local area and so harm the character of the countryside.

This site is shown in the 2020 HELAA and considered to not currently be developable. The HELAA states that a very similar site across the road was dismissed on appeal because the development would not comply with development plan policies and it would not represent sustainable development as it is too far from the village centre. During the examination of the current YNDP, the coal yard site opposite was rejected as unsuitable for housing with the Examiner stating:

"Whilst displaying built-up characteristics, this area to the north of the crossroads (Maypole Lane/North

End Road), is both distinct from and geographically separated from the built-up part of the village. It is approximately 1km from the village centre, a walk of approximately 18 minutes."

The Inspector recommended the deletion of the site from the YNDP. Under the dismissed appeal for the coal yard site, the Inspector noted that the YNDP considered the site would reinforce existing ribbon development with little prospect of achieving sustainable, well planned development.

Due to surface water flooding issues on site, it is proposed to raise finished floor levels and ground levels. This is particularly the case on the west side of the site with those on the North End Road frontage being raised by between 1.45m at the northern end to 0.75m at the south end. This will increase the impact of the proposal but this height increase will be masked by the level of North End Road (which for the most part is higher than the site) and the retained hedge plus new trees.

The development, by reason of its siting and layout, results in the erosion of the character of this semi-rural area, and would fail to protect the countryside and landscape contrary to the NPPF, ALP policies C SP1, D SP1, D DM1 & LAN DM1 and YNDP policy H1.

RESIDENTIAL AMENITY:

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

- Back to Back: min. 21m between habitable rooms of properties or to existing buildings;
- Back/Front to Side: min. 14m between habitable rooms and side gable of adjacent property;
- Front to Front: min. 16m between habitable rooms of properties facing each other; and
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

There are no standards given for either side to side or front to back.

The north part of the site directly abuts the railway tracks, so the scheme would have no impact on residential amenity in this direction. To the front (west), the dwellings fronting the road would be separated from the front of the dwellings on the opposite side of the road (1-2 Yapton Gates) by around 28m which is more than adequate to avoid overlooking or loss of outlook/light to these properties.

On the south side of the site, the nearest property is Apple Tree Cottage. There is an access track between the sites, and the front of the nearest new dwelling (at the rear of the site) would be 21m from the rear corner of the existing dwelling and about 11m from the side boundary to the rear garden of the cottage. There would be one side facing upper floor window on the southern elevation of the nearest dwelling but this serves a bathroom and so can be conditioned to be obscure glazed. There are no flank windows on the south elevation of the southernmost dwelling on the frontage and this will be 22.5m from the flank of Apple Tree Cottage.

The net increase of 4 dwellings results in more activity (pedestrians/vehicles) coming in and out of the site which could cause some increased general noise and disturbance. The access is existing and there is a buffer area of over 3m to the south of it thus allowing space for landscaping to act as a potential noise buffer. This is not an incompatible use and the anticipated increased noise and disturbance would not be so significant as to warrant refusal. Environmental Health have not objected on noise grounds.

Subject to conditions, the proposal will maintain an acceptable level of residential amenity for neighbouring occupiers, in accordance with the NPPF and ALP policies D DM1 and QE SP1.

QUALITY OF ACCOMMODATION:

The proposal is for 2 x 4 bed houses & 3 x 3 bed houses and this mix is appropriate given the small scale of the proposal.

ALP policy D DM2 states that internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. The proposed dwellings have been checked and all comply with the internal space standard requirements.

The Arun Design Guide sets out standards for garden sizes as follows:

- Private Rear Garden: min. 10.5m depth;
- Private Front Garden: min. 2m depth;

Each dwelling has an external rear terrace and private enclosed rear garden with the shortest being around 13m and the longest around 17m. The dwellings have front gardens which vary in depth but are at least 1.5m and therefore appropriate given that the Design Guide allows for a flexible approach.

The proposal will provide a decent standard of amenity for future residents and is therefore acceptable.

NOISE POLLUTION:

ALP policy QE DM1 states that residential development likely to experience road noise 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 likely level of exposure at the time of application and any increase that might be reasonably expected in the foreseeable future.

Immediately to the north is the railway track. The northernmost dwelling would be set away from the tracks by around 10m. A Noise Impact Assessment Report has been submitted and assesses noise from road traffic & the railway line and vibration from the tracks. Environmental Health confirm they accept the proposed mitigation measures (consisting of glazing with additional ventilation & acoustic fencing). They request that conditions are used to ensure that these measures are implemented.

The noise conditions would ensure that new residents are not adversely affected by noise from the road or railway line and therefore there is no conflict with policy QE DM1.

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.

The site plan shows each house will be provided with a bin storage area and that bins will be wheeled to a collection point on the access road on collection days. Collection will be from North End Road which is as per the current situation for houses on the road. Details of the exact appearance of the bin storage spaces could be secured by condition. The proposal therefore complies with policy WM DM1.

CLIMATE CHANGE:

ALP policy ECC SP2 requires that all new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires that new development be designed to adapt to impacts arising from climate change. Paragraphs 154(b)

and 155 of the NPPF state that new development should be planned in ways that can reduce greenhouse gas emissions, such as through its location, orientation and design and seek to increase the use and supply of renewable and low carbon energy and heat.

The Design & Access Statement states electric car charging points will be provided to every parking space, front & rear windows will ensure daylight/natural ventilation through the dwellings and that all dwellings will have a heat recovery system located within the roofspace. The plans show solar panels to roofs. These are positive but conditions will need to be imposed to secure details of the electric charge points and heart recovery system.

Subject to such conditions, the proposal would comply with the NPPF and Arun Local Plan policies ECC SP1 and ECC SP2.

LAND CONTAMINATION:

As per ALP policy QE DM4, development on or in close proximity to hazardous sites or contaminated land will only be permitted provided the Council is satisfied that appropriate remedial measures can be or have been undertaken in respect of human health and groundwater. Environmental Health recommend conditions to ensure any on site contamination is mitigated. There is no conflict with policy QE DM4.

FLOODING & SURFACE WATER DRAINAGE:

The site is not affected by current or future flooding from rivers/sea but is known to be affected by surface water flooding on a 1 in 30 year and greater basis. Engineers advise that flood depths for the large area covered by the 1 in 100 event are 0.6-0.9m, with one small area reaching a depth of 1.2m.

ALP policy W DM2 sets out the requirements for development in areas at risk of flooding, including; the need for the sequential test, exceptions test, a Flood Risk Assessment, adaptation and mitigation measures, flood warning & evacuation plans and site drainage plans. ALP policy W DM3 requires all development identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process. YNDP policy E11 seeks to minimise overall flood risk, provide appropriate surface water drainage, and open existing culverts where possible.

The NPPF (paras 161-168) states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source and that flood risk must not be increased elsewhere. Should there be no available land with lower risk then it is necessary to apply the exceptions test.

The Councils Drainage Engineers raise an objection on the basis that the applicant has not satisfactorily addressed the previous concerns/refusal reason. Three dwellings are to be located in a low part of the site that is known for surface water flooding. To combat this, levels are to be raised and flood storage provided in the parking area but this will not be deep enough to store the anticipated flood water. It is stated this will result in flood risk elsewhere and the flooding of the parking area and rear gardens to up to 0.45m which is not safe or sustainable. The applicant has not provided winter infiltration testing & groundwater monitoring (as raised on the last application) so it is impossible to know if storage can be provided below ground. It is also stated that the proposed finished floor levels are too low and that there is no evidence that the sequential or exception tests have been carried out.

It is necessary to consider the exceptions test if the sequential test is accepted (which it has not been because none has been provided). For the sake of completeness, it is noted the exceptions test requires

(1) that the proposal will provide wider sustainability benefits to the community (using the criteria set out within the ALP Sustainability Appraisal Framework or other relevant policies) that outweigh the flood risk; and (2) that it will be safe for its lifetime without increasing flood risk elsewhere and where possible reduce flood risk overall.

The Drainage Strategy Report simply refers to the site's location with EA Flood Zone 1 and states that development here is appropriate. It does not respond to the sequential/exception tests and the Design & Access Statement is silent on any wider sustainability benefits. The Drainage Strategy simply states surface water flooding will be addressed by a combination of the proposed levels & drainage design to mitigate the risk of surface water flooding to the proposed development and elsewhere.

The applicant has failed to demonstrate that the development would not suffer flood risk or increase flood risk elsewhere thus resulting in harm to human health, contrary to the requirements of the National Planning Policy Framework, ALP policies W DM2 & W DM3 and YNDP policy E11. This should form a refusal reason.

FOUL DRAINAGE:

The site falls in the Lidsey Wastewater Treatment Catchment Area. ALP policy W DM1 states that although minor developments are unlikely to raise significant flood risk, due to the cumulative impact all development within this area must also be accompanied by a Drainage Impact Assessment.

The Drainage Strategy does refer to foul drainage but does not mention the Lidsey Drainage Treatment Area and so does not accord with the requirements of policy W DM1. It states that foul drainage will be disposed through a gravity connection to the existing public foul manhole. It estimates an increase in peak foul water flows to 0.25 l/s (based on Sewers for Adoption). It also notes that the infrastructure and connection charging system placed the onus on the sewerage undertaker to reinforce their network should there not be sufficient capacity to serve the new development.

Notwithstanding the conflict with policy W DM1, it is noted that Southern Water do not raise any objection and therefore it would not be sustainable to refuse the application on this basis.

TREES:

ALP policy D DM1 states development is expected to incorporate existing and new tree planting as an integral part of proposals. ALP policy ENV DM4 requires that TPO protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity are not damaged or felled unless the developments meets the following criteria:

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

YNDP policy E4 states development will be expected to retain well-established features of the landscape, including mature trees and species-rich hedgerows, and if there is significant loss of trees and shrubs as part of development, then new provision will be expected elsewhere on the site.

The proposal results in the loss of 11 trees including one category B tree, 4 sections of shrubs/hedge and 6 groupings of trees (including one category B). The Tree Officer objects to the proposal and requests amendments to the Arboricultural Impact Assessment & Method Statement (AIA&MS) in the interests of respecting & protecting important trees, plus a landscaping scheme and confirmation that the drainage scheme will not affect important tree roots. The Tree Officer advises that subject to these

changes, the proposal is capable of support.

In respect of policies ENV DM4 and E4, the proposal does not state that it is removing trees in the interests of good arboricultural practice or to enhance the survival & growth prospects of other trees. Rather they are being removed to accommodate the development. Although the development is small in scale, there is still a need for new housing and the majority of the trees and vegetation being removed is low quality with the most important trees being retained.

The Tree Officer's requirements could be secured via conditions to (a) secure changes to the AIA&MS, (b) secure a landscaping scheme worded so as to specifically require new tree planting on a 2:1 basis to compensate for those trees to be lost (or justification to be provided if this is not achievable); and (c) to secure a drainage scheme (subject to future resolution of the drainage objection).

On this basis, there is no conflict with ALP policies D DM1 & ENV DM4 or YNDP policy E4.

BIODIVERSITY:

ALP policy ENV DM5 states development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. They shall incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitat. YNDP policy E5 seeks to retain and encourage biodiversity, through measures such as flood attenuation ponds, links and corridors for wildlife, other forms of SUDS or domestic rainwater management systems.

Paras 174, 179 and 180 of the NPPF indicate that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the Environment Bill and the NPPF.

The application is accompanied by an Ecological Impact Assessment. The Council's Ecological Advisor notes the survey did not assess the bat roost potential of on-site trees and requests this be provided before trees loss is sanctioned. The ecologist raises no other concerns and recommends conditions. The ecologist confirms the enhancements in the EIA meet the requirements for Net Biodiversity Gain, and should be incorporated into any Landscaping Plan by way of a condition. The loss of trees could be compensated by a varied landscaping condition wording to require new tree planting on a 2:1 basis. It is also noted that part of the site will be left as a natural area.

It is noted that the site is in the risk zone for the Arun Valley Site of Special Scientific Interest, and as such the presence of protected Bewick Swans needs to be considered. Natural England confirmed in respect of the previous application (which was for a greater amount of development) that the development will not have significant adverse impacts on statutorily protected nature conservation sites.

The proposal is generally acceptable but it not possible to state that it is in complete accordance with policies at this time due to the lack of bat surveys for the on-site trees. Therefore, it is recommended that this form a refusal reason.

SUPPORTING INFRASTRUCTURE:

Policy INF SP1 of the Local Plan states that 'The Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development (including the necessary infrastructure set out in the Infrastructure Delivery Plan) to meet the needs of occupiers and users of the development and the existing community'.

This is a CIL Liable development. It is in Zone 3 and a CIL amount of £56,978.89 is payable unless the

applicant applies for exemption subject to the requirements of the CIL Regulations 2010 (as amended). The Parish Council would receive a 25% share of this money (£14,244.73) albeit subject to whether any relief is claimed.

Subject to the proposal providing the required CIL contributions, there would be no conflict with ALP policy INF SP1.

THE NPPF PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT:

ALP policy SD SP1 "Sustainable Development" states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Para 8 of the NPPF states that in order to achieve sustainable development; economic, social and environmental objectives should be sought jointly and simultaneously through the planning system. The following is an assessment of the benefits and costs associated with the proposal.

The site is approximately 1 mile from the centre of Yapton village, which provides a range of local shops and facilities. There is a bus stop close to the site. Under the appeal decision in 2015 for the former coal yard, the Inspector noted that, given the distance to the centre of the village, future occupants would be likely to be highly reliant on private vehicles for day to day activities and getting to and from work. The Inspector concluded in this respect the development would not fully meet the aims of sustainable development set out in the NPPF.

Since this appeal, there have been more recent appeal decisions which conclude this sort of distance from a village centre, and if walking, cycling and bus routes are available for travel and people would have the choice not to have to use a car, it would still constitute environmentally sustainable development. This is the case for the site, and it is concluded the site is in a relatively environmentally sustainable location from a transport perspective. That being said, the proposals results in environmental harm with regard to its impacts on the character of the countryside, the loss of trees/vegetation and displacement of wildlife

The proposal could help support the local community by providing 5 new homes suitable for families and by contributing to the Councils current Housing Land Supply shortfall. CIL receipts could be used in the Parish Council area to contribute towards local infrastructure needs and this would result in a further benefit to the local community. The NPPF definition also advises that development should foster a well-designed beautiful and safe built environment - the proposal would not achieve this and would harm the character of the area.

The proposal for 5 new dwellings (4 net) would meet the economic objective, in terms of providing or maintaining employment during the construction phase, increased Council Tax receipts, potential new homes bonus payments and additional spending by new residents on goods & service. This would provide a benefit to the local economy and weighs in the schemes' favour.

The New Homes Bonus and Community Infrastructure Levy are local finance considerations and as noted in the Development Plan Background section above, section 70(2) of Town and Country Planning Act 1990 (as amended) provides that local planning authorities should have regard to any local finance considerations, so far as material to the application.

On balance the proposal meets the economic, social and environmental aspects of sustainable development and the presumption in favour of sustainable development would be engaged. The Presumption states that 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.

SUMMARY:

There is unresolved conflict with ALP policies C SP1, W DM2, W DM3 & ENV DM5 and with YNDP policies BB1, H1 & E11 in respect of harm to the character of the area, potential harm to biodiversity and harm to safety arising from flood risk.

It is recognised that the applicant has made positive changes to the scheme since the previous refusal which have also resolved some of the previous concerns with trees & wildlife and have improved the appearance of the development through the retention of trees and hedging.

The policy conflicts and associated harm would, on balance, outweigh the benefits of the proposal and so the proposed development would not benefit from the presumption in favour of sustainable development. It is therefore recommended that the proposal 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.

RECOMMENDATION

REFUSE

- 1 The site lies in a countryside location outside the defined Built-Up Area Boundary of Yapton and the proposal, which would reinforce existing ribbon development and due to its layout would appear prominent and incongruous with the streetscene, would erode the existing intrinsic character of the countryside and harm the visual amenity of this semi-rural area. The proposal is contrary to the National Planning Policy Framework, Policies SD SP2, C SP1, D SP1, D DM1 & LAN DM1 of the Arun Local Plan and Policies H1 & BB1 of the Yapton Neighbourhood Plan.
- 2 There has been a failure to demonstrate the development would not suffer flood risk or

increase flood risk elsewhere thus resulting in harm to human health, contrary to the requirements of the National Planning Policy Framework, policies W DM2 & W DM3 of the Arun Local Plan and policy E11 of the Yapton Neighbourhood Plan.

- 3 There has been a failure to sufficiently survey for bat roosts in the trees shown to be removed by the development and as such there is insufficient information to determine the impact on protected species contrary to policy ENV DM5 of the Arun Local Plan and the National Planning Policy Framework.
- 4 **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 reasons 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.