

Recommendation Report for Outline Consent

REF NO: Y/77/19/OUT

LOCATION: Land south of Hoe Lane
Flansham
PO22 8NP

PROPOSAL: Application for Outline Planning Permission for erection of ten dwellings with access from Hoe Lane. Resubmission of Y/20/18/OUT - This is a Departure from the Development Plan

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The current proposal is in outline and only seeks approval of the principle of the development and the access arrangements. An indicative layout plan has been provided but layout is a reserved matter and would be dealt with by a separate application.

The scheme proposes to retain the existing two dwellings and then develop the remainder of the site with 10 new dwellings. The supporting planning statement advises that:

- There will be a mix of 1, 1.5, 2 & 2.5 storey accommodation with traditional rural building types;
- The layout will be designed to appear as a farmstead and traditional building typologies will be used;
- Additional tree planting is proposed to the site boundaries and there will be a formal orchard within the public open space near to the entrance of the site to further screen views of the new homes from Hoe Lane;
- 30 off-road parking spaces are proposed, at 3 per dwelling, within the site to prevent any future residents parking on Hoe Lane.

The scheme proposes to use the existing access but will widen this and also make some minor alterations outside of the site to link the existing pavement footpath (which ends just east of the access) to the pavement leading into the site.

The tree survey indicates that T24, a Poplar located on the western side of the site, south of the house will need to be felled. The tree survey also suggests that the following trees/tree groups may need to be removed but at the owners discretion:

T12 - 1 Sycamore (located on western boundary close to existing dilapidated buildings);

G13 - 4 Sycamore (located on western boundary close to existing dilapidated buildings); and
G14 - 2 Sycamore (located on western boundary close to existing dilapidated buildings).

The plans also indicate the need for the felling and pruning of some additional trees at the site access to facilitate widening and visibility. However, the layout also suggests that the protected trees will all be retained.

SITE AREA 1.15 Hectares.
RESIDENTIAL DEVELOPMENT DENSITY 8.7 dwellings per hectare.

TOPOGRAPHY The site is considered to be predominantly flat but is noted to be between 1 and 2m lower than the level of the A259 to the south.

It is not possible to view the site from external ground level viewpoints other than at the vehicular entrance, the south western corner where the footpath meets with the A259 BRRR and from the area where the pond sits between the south eastern boundary and the hedge which is possible to access from the public footpath at the south western corner.

TREES There is a Tree Preservation Order (TPO/Y/1/18) in place on a group of 3 Field Maples situated in the south-western corner of the site close to the footpath and on a group of 12 trees (6 Beech, 5 Hornbeam, 1 Oak) which together enclose the southern and western boundaries of Bonhams garden.

There are other trees fronting Hoe Lane, bordering the footpath on the western side and dotted throughout the site. There is also an established hedge along the boundary with the A259 BRRR. An additional TPO (TPO/Y/2/18) was made in respect of a Hornbeam tree which is adjacent to the 12th individual tree forming part of the TPO/Y/1/18 schedule (but which was accidentally omitted from the first Order).

BOUNDARY TREATMENT These consist of:

- (1) Western boundary is part trees, part hedge and part 1.8m timber fence to Flints;
- (2) Northern boundary is part hedge/trees and part flint/brick wall;
- (3) Brick piers with black metal gates to Hoe Lane; and
- (4) Eastern and southern boundaries consist of ranch style timber fencing (1m high) with the established hedge beyond.

In addition, there are internal boundaries within the site to separate Bonhams from Flints Cottage and from the open areas of the site. These consist of manicured hedges and timber fencing.

SITE CHARACTERISTICS The site (the areas edged red & blue on the application

location plan) consists of three separate parts. First, the dwelling Bonhams, with its large gardens. Bonhams is end on to Hoe Lane and backs onto a public footpath running roughly south from Hoe Lane adjacent to the western boundary of the site. It comprises a grand two-storey dwelling in brick, flint and clay tiles together with a garage/store outbuilding on the western side. Bonhams is a 17th-century house and was remodelled with walls of knapped flint and brick in the early 18th century. Bonhams was formerly a listed building but was formally delisted in 2013. Bonhams has a large well-maintained garden on its eastern and southern sides and there are at least two small timber sheds. Bonhams has principal windows in all elevations.

Secondly, the smaller dwelling known as Flints Cottage which is located to the south of Bonhams. This is a two-storey dwelling which also backs on to the public footpath and is similarly built from a mix of flint, brick and clay tiles. Flints Cottage has principal windows in all elevations. It has a rectangular garden extending to the east of the dwelling and has outbuildings on both sides.

Both Flints Cottage and Bonhams share an access onto Hoe Lane. However, Bonhams has an additional access direct from Hoe Lane to a double garage.

The third part of the site is essentially a field to the south which shares access with both dwellings. This is covered in scrub planting and at the time of a site visit in July 2017, there was evidence of log piles and some waste materials. The remains of some old single storey buildings also lie alongside the western boundary backing on to the public footpath. The south-western corner appeared at that time to be more overgrown than the rest.

The western boundary of the site is with the afore mentioned public footpath. This connects Hoe Lane with the A259 Bognor Regis Relief Road (henceforth abbreviated to A259 BRRR). Beyond this boundary lies the dwelling known as Jem House which is well screened by trees but does have a first-floor bathroom window on the flank which may afford limited views of the site.

CHARACTER OF LOCALITY

The site is between Hoe Lane, Flansham and the A259 BRRR. However, it is considered that the application site most clearly falls within the setting of Hoe Lane.

Hoe Lane is considered to have a historic semi-rural character and is made up of low-density development in the form of medium to large sized detached dwellings, farm buildings (there are two farms in the hamlet) and dwellings which have been previously converted from farm buildings. In total, there

are only 50 houses clustered around the single lane (Hoe Lane). There are five Listed properties (two of which are two halves of the same building) within Flansham and also five locally designated Buildings of Character. It is also noted that Bonhams itself was previously a listed building.

The current Yapton Neighbourhood Development Plan states at paragraph 11.1 that:

"The hamlet of Flansham, in the south part of the parish, is the oldest settlement in the district. It occupies slightly rising ground, together with Hoe Farmhouse to the northwest; the nearness of brookland suggests that the second element of the name is 'meadow' (hamm) rather than 'settlement' (ham), as also perhaps at Felpham. A late Bronze Age 'founder's hoard' from Hoe Lane possibly indicates occupation and there is evidence for Roman settlement. About 1844 there were 12 dwellings loosely scattered around a junction of three lanes and in 1898 two farms and 14 cottages. Several new houses and bungalows, some large, were built after c. 1910, chiefly at the west end. Though the hamlet's nearness to the Bognor-London road was stressed when Flansham farm was advertised for sale in 1837, by the mid-twentieth century it was notable for its seclusion and rural aspect despite close proximity to the edge of Bognor's built-up area. Elms grew so thickly in the 1940s as to render part of Hoe Lane virtually a tunnel in summer. Two working farms remained in the hamlet in 1992, though some outbuildings had been converted by then to residential use or offices. Flansham is considered to merit designation as a Conservation Area or as an Area of Special Character. Such a designation will be strongly supported."

On the other hand, the character of the A259 BRRR is completely different being as it is a modern relief road and with the large "Site 6" residential development on land to the south. However, the northern edge of the A259 has been landscaped so as to soften the transition into the more rural land to the north which includes the appeal site and adjacent farmland.

RELEVANT SITE HISTORY

Y/20/18/OUT	Outline application with some matters reserved for the erection of 10 dwellings with access from Hoe Lane, Flansham (resubmission following Y/40/17/OUT). This application is a Departure from the Development Plan.	Refused 11-03-19
Y/40/17/OUT	Outline application with some matters reserved (access only) for the erection of 23 No. dwellings with access	Refused 09-02-18

from Hoe Lane, Flansham. This application is a
Departure from the Development Plan.

Y/19/14/CLE	Application for a Lawful Development Certificate for the Use of the existing cottage as a separate residential dwelling house.	Approve 17-06-14
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Application Y/19/14/CLE granted a certificate of lawful use (existing) for the use of Flints as a separate dwelling thus establishing two separate dwellings on the site.

Application Y/40/17/OUT originally sought outline permission for 34 dwellings with some matters reserved except for access (from Hoe Lane). However, this number was reduced to 23 in response to concerns raised regarding character, but the application was nevertheless refused in February 2018 for four reasons.

Application Y/20/18/OUT sought outline planning permission for 10 dwellings with access from Hoe Lane. It was refused on the 11th March 2019 for the following 2 reasons:

(1) The proposal would constitute an over-intensive use of the site and a unsatisfactory form of development which would adversely affect the existing low density semi-rural, agricultural and historical character of Hoe Lane, Flansham and nearby non-designated heritage assets contrary to policies D DM1, D SP1, QE DM2 & HER SP1 of the Arun Local Plan and paragraphs 122, 127, 130, 180 & 197 of the National Planning Policy Framework.

(2) The proposal represents an incursion into defined countryside, and this coupled with the harm to local character means that the proposal is unacceptable in principle and in conflict with policies C SP1 of the Arun Local Plan and BB1 of the Yapton Neighbourhood Development Plan.

The applicant submitted an appeal which was determined by an informal hearing held on 15 January 2020 and for which the appeal decision was published on 12 February 2020. This appeal was solely dismissed on the grounds of significant and demonstrable harm to the character of Flansham by the change of the existing rural character of the appeal site to an urban area linking Felpham and Flansham and because the development would not satisfactorily recognise and respond to the intrinsic character of the countryside.

However, the Inspector determined that Flansham as a whole could not be considered as a non-designated heritage asset and that the 'less than substantial harm to the non-designated heritage asset' of Bonhams was outweighed by the benefits associated with the proposal. The Inspector also considered that the housing land supply (3.7 years) as stated by the Council was incorrect and that the HLS figure should actually be only 2.9 years. The Inspector also dismissed any concerns as to loss of agricultural land, the safety of the access, the impact of new lighting, the impact of the development on local surface water drainage and the impact on the foul sewer network.

The Inspector stated that the most important policies for determining the proposal (C SP1, D SP1, D DM1 and HER SP1 of the ALP & BB1 of the YNP) should be considered out-of-date as the Council could not demonstrate a 5 year HLS. Also, that this significant shortfall in housing land supply coupled with the likelihood of the situation continuing for some time should be given very significant weight. However, the harm to the character of the area meant that the proposal would not represent sustainable development and on this basis the appeal was dismissed.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Yapton Parish Council

YAPTON PARISH COUNCIL (YPC):

Have strong reservations regarding the development of this sensitive site on the basis that the area is not designated for new housing development and is additional to the Parish's agreed housing allocation numbers. Also object on continued grounds of highway safety due to the close proximity of the access point and the A259/B2259 roundabout.

LOCAL RESIDENTS:

The Council has received 33 letters of objection raising the following material planning considerations:

- (1) Proposal is contrary to the development plan being housing development in the countryside;
- (2) Site 6 boundary was to be the limit for development and the site is needed as a transition between Felpham & Flansham;
- (3) There are other vacant sites elsewhere such as at Site 6 in the BUAB that could take this development;
- (4) This will set a precedent for other developments in Flansham;
- (5) Danger to highway safety from increase in traffic particularly to pedestrians, their pets, cyclists, horse riders;
- (6) Increased traffic at the roundabout making it impossible to exit Flansham at peak times;
- (7) Permission should be conditional on an alternative access being provided from the A259;
- (8) No provision for large vehicles to turn within the site;
- (9) If waste is collected from Hoe Lane this will create further traffic/safety issues;
- (10) Harm to the character of Flansham;
- (11) Too high a density and represents 20% increase on number of homes in Flansham;
- (12) Adverse harm outweighs any benefits;
- (13) A request has been made for the designation of Flansham as a Conservation Area;
- (14) Harm to heritage of Flansham;
- (15) Surface water drainage system unable to cope with more development leading to more flooding;
- (16) Insufficient foul sewage provision in the area;
- (17) Impact on existing poor Broadband speeds;
- (18) Is the noise assessment up-to-date;
- (19) Any noise assessment should be carried out on days when the winds blow to the west as this is the prevailing wind direction;
- (20) Light pollution; and
- (21) Loss of wildlife.

There was also 2 letters of support including from the site owner stating that:

- the proposal will enhance Flansham;
- the proposed development will not be seen from Hoe Lane;
- the proposal will provide much needed housing;
- no objections from WSCC Highways on road safety grounds; and
- no plans to demolish Bonhams to build more.

COMMENTS ON REPRESENTATIONS RECEIVED:**PARISH COUNCIL:**

These matters are considered in the conclusions section of the report. However, it is highly material that the recent appeal decision for the same development did not consider these matters to be such that development should be prevented.

LOCAL RESIDENTS:

The supporters comments are noted. In respect of the resident objections, items (1), (5), (6), (10), (11), (12), (14) & (21) will be discussed in the conclusions section of this report. The other points are considered below:

- (2) It is accepted that the site lies outside of the built up area boundary (BUAB);
- (3) Noted however, it must be recognised that the Council is currently only able to demonstrate a 2.9-year housing land supply (HLS) and that there is a shortfall of 2.1 years (ADC should have a 5-year supply). This means that development may have to be permitted on sites outside of the BUAB and just because another site may have development potential does not mean that no other development is required;
- (4) Precedent is capable of being a material planning consideration, however, every application has to be considered on its own merits and thus a development here would not automatically result in further development nearby;
- (7) It would not be possible to use a planning condition to secure this. Also, as set out elsewhere there are no concerns with the proposed access from the Councils highway experts;
- (8) & (9) These matters would be agreed at the reserved matters application (if the outline was to be granted) as then the Council would be able to consider the site layout and refuse arrangements;
- (13) Noted. As of the current time, the area does not benefit from Conservation Area status and so this cannot be considered;
- (15) There is no objection from either the District or County drainage engineers and it is clear that the recent appeal decision for the same development did not consider these matters to be such that development should be prevented;
- (16) As (15) but noting that there is no objection from Southern Water;
- (17) Noted however there are no planning policies to protect existing broadband services;
- (18) The Council's Environmental Health Officer does not advise that the submitted noise assessment it is out of date;
- (19) The noise assessment does not make reference to prevailing wind directions however, this is also not something that the Environmental Health Officer asked to be corrected; and
- (20) In determining the recent appeal, the Inspector dismissed any concerns as to the impact of new lighting. Instead, a condition could be imposed to agree the details of new lighting.

CONSULTATIONS

Ecology Advisor
 Arboriculturist
 Engineering Services Manager
 Engineers (Drainage)
 Environmental Health
 Southern Water Planning

Conservation Officer
Highways England
WSCC Strategic Planning
Surface Water Drainage Team
Sussex Police-Community Safety
NHS Coastal West Sussex CCG
Parks and Landscapes

CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND: Raise no objection.

NHS: No response.

SOUTHERN WATER: Note a public foul sewer crossing the site which will need to either be protected or diverted. Request that a condition be imposed to agree the means of foul & surface water drainage.

SUSSEX POLICE: No objection but list a number of advisory notes regarding improving security (letter dated 17/10/19).

WSCC HIGHWAYS: Raise no objections. State that no objections were raised to the previous two applications from a highway point of view and that in principle the comments and recommendations from before have not changed. Highways have assessed the new plans showing visibility splays, proposed cycle path signs and vehicle tracking but find no concerns with any of these. State that parking will need further consideration at the reserved matters stage. Request conditions as per the Y/40/7/OUT comments.

WSCC FLOOD RISK: The majority of the site is at a low risk from surface water flooding but some higher risk exists at the south of the site. Any existing surface water flow paths across the site must be maintained. The proposed development site is shown to be at high risk from groundwater flooding. This risk and appropriate mitigation should be considered in any future designs especially with regard to underground structures and utilities. No development should take place within 3m of any ordinary watercourse and access of future maintenance must be considered during planning.

WSCC INFRASTRUCTURE: Request that a formulaic approach be used within the S.106 legal agreement to secure financial contributions in respect of:

- * Additional equipment at Bishop Tufnell CofE Primary School;
- * Phase 1 of a new secondary school serving the Arun District; and
- * Additional equipment at Felpham Community College Sixth Form.

COUNCILS ECOLOGIST: Note that an on-site Beech Tree (coded T47) supports a common pipistrelle bat roost. As detailed within the Bat Survey Report August 2017 the tree must be retained and a no light zone created around it where no light will be directed towards this tree or within a 10m radius of it. A buffer should be created around this tree and fencing used during the construction period to ensure this area remains undisturbed. Raise no issues with the submitted reptile and Great Crested Newt (GCN) surveys. Recommend conditions in respect of reptile mitigation, a GCN ecological watching brief, a pre-commencement badger survey, no works during bird breeding season and a wildlife enhancement scheme (including new bat/bird nesting opportunities).

ADC ENVIRONMENTAL HEALTH: Requested further noise monitoring to ensure that the acoustic results are representative of the full working week.

ADC DRAINAGE ENGINEERS: No objection to the principle of the drainage scheme but that more details will need to be provided to discharge that conditions that need to be imposed.

ADC LANDSCAPE OFFICER: Note that the reduction of units in this application to 10 in this setting down from the previously proposed within application Y/40/17/OUT is much more fitting for the site given that the TPO trees are retained and that Public Open Space (POS) is provided within the layout. There is no requirement for off-site play contributions but a Local Area of Play (natural play experience in the form of mounds/boulders/logs etc.) will be required within the main POS. Would require full details of landscaping at the reserved matters stage.

ADC CONSERVATION OFFICER: Full comments set out on the website but in summary advises that development in this location would not be in accordance with the character of the existing hamlet and that the development would cause harm to the setting of the non-designated heritage asset - albeit that this harm would be at the lower end of the spectrum.

ADC TREE OFFICER: No response.

COMMENTS ON CONSULTATION RESPONSES:

All comments noted unless indicated below:

WSCC INFRASTRUCTURE: As this decision will be made after the introduction of CIL, it will not be possible to secure the contributions through a S.106 Agreement and instead WSCC can make a bid for a portion of any CIL payments collected should the application be approved.

ADC ENVIRONMENTAL HEALTH: The applicant revised their report in response to the concerns and this was submitted to Environmental Health for comment but no further comments were provided.

ADC LANDSCAPE OFFICER: As according to the Councils new Open Space SPD (Jan '20), a development of this size would not attract a requirement for either on-site POS or play facilities. There would be an off-site requirement but this would instead need to be secured through CIL.

POLICY CONTEXT

Designations applicable to site:

Outside Built Up Area Boundary;
EA Flood Zone 1;
ADC Ground Water Flood Risk Area;
Archaeological Notification Area;
Agricultural Land (Grades 1 & 2) - as according to figure 2 of the YNDP;
Area of Special Control for Advertisements;
No Public Sewer; and
Tree Preservation Orders ref TPO/Y/1/18 & TPO/Y/2/18.

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
HWBSP1	HWB SP1 Health and Wellbeing
ENVSP1	ENV SP1 Natural Environment
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HERSP1	HER SP1 The Historic Environment
HSP1	HSP1 Housing allocation the housing requirement
INFSP1	INF SP1 Infrastructure provision and implementation
LANDM1	LAN DM1 Protection of landscape character
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
SDSP1	SD SP1 Sustainable Development
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
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 BE2	Minimising the impact of flooding from development
Yapton neighbourhood plan 2014 Policy H1	High speed broadband
Yapton neighbourhood plan 2014 Policy H2	Housing requirement
Yapton neighbourhood plan 2014 Policy H3	Dwelling size
Yapton neighbourhood plan 2014 Policy PK1	Dwellings appropriate for the needs of older people
	Parking standards for new residential development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
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NPPG National Planning Practice Guidance

NPPDG National Design Guide

SUPPLEMENTARY POLICY GUIDANCE:

SPD11 Arun Parking Standards 2020

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

POLICY COMMENTARY

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

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

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

The relevant policies within the Yapton Neighbourhood Development Plan have been considered in the preparation of this report. Yapton Parish Council are currently working on a review of their Neighbourhood Plan, but they have not yet reached the Regulation 14 stage in this process.

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 is considered to be in conflict with the relevant development plan policies in that it would result in new development within the countryside outside of the nearest settlement boundary, would result in harm to the character of Flansham and would also result in a loss of high grade agricultural land.

OTHER MATERIAL CONSIDERATIONS

It is considered that the recent appeal decision for the same development (as set out above in the planning history section) is a very important material consideration in respect of arguments concerning the principle of development and the loss of agricultural land and that this together with the particular material considerations discussed in that decision weighs against a decision in accordance with the Development Plan and/or legislative background as detailed in the Conclusion section.

CONCLUSIONS**PROPOSAL & PRINCIPLE:**

This is an outline application with means of access details only. Although an indicative site layout plan has been submitted which demonstrates that 10 dwellings can be provided together with access roads, footpaths, a public open space comprising a small orchard), parking retained trees and new landscaping;

layout is not a matter for determination at this time.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the plan unless material considerations indicate otherwise. The development plan for the Arun District currently comprises the Arun Local Plan 2011-2031, the Yapton Neighbourhood Development Plan (November 2014) and the West Sussex Waste and Minerals Plans.

Section 38 (5) 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 and the Arun Local Plan, should therefore be resolved in favour of the latter.

All development policies that relate to the supply of housing in the Local Plan (policies C SP1, SD SP2) have reduced weight because Arun cannot demonstrate an adequate supply of housing land (only 2.9 years). In addition, policies in the Yapton Neighbourhood Development Plan that relate to the supply of housing (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 that 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. Therefore, the presumption in favour of sustainable development is unaffected by the Neighbourhood Plan.

The Arun Local Plan (ALP):

The key policy considerations in the determination of this application which relate to the principle of development are considered to be H SP1, SD SP2 and C SP1.

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 a 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" (NSS-DPD).

This document will fulfil an identified deficit of 1,250 houses from smaller sites (under 300 units each) in the Local Plan. The NSS-DPD has not yet been published for Regulation 18 and it is anticipated that an Issues/Options document will be available in early spring 2020. Yapton Parish Council are currently working on a review of their Neighbourhood Plan, but they have not yet reached the Regulation 18 stage in this process. However, it is clear from the Parish comments that this site will not be proposed for the NSS-DPD or the review of the Neighbourhood Plan.

Policy SD SP2 "Built up Area Boundary" states that the Built-Up Area Boundary (BUAB) is defined for the main towns and villages in the District and shown on the Policies Maps. Development should be focused within the BUAB and will be permitted, subject to consideration against other policies of the Local Plan.

Policy C SP1 "Countryside" states that 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. It is noted that none of these relate to the proposal. As this site lies outside the nearest BUAB, it is categorised as being within the countryside and the scheme would therefore conflict with ALP policies SD SP2 and C SP1.

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 as well as various approved but not yet built developments the area of Yapton village itself. However, in both cases, there is no BUAB drawn around Flansha and the site therefore lies in the countryside.

Policy BB1 states that 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 appeal 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. It is considered that this 20% has already been achieved through recent applications in the village 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 development would be subject to CIL and therefore, it would be possible for a portion of the required payment to go towards the funding of school improvements.

The National Planning Policy Framework (NPPF):

The NPPF (Feb 2019) is an important material consideration in determining planning applications. As discussed below under "Other Material Considerations", the Council cannot currently demonstrate a 5-year Housing Land Supply (HLS) and therefore paragraph 11 (d) of the NPPF and the application of the 'presumption' for sustainable development is triggered.

This means that 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. The part (ii) test will be applied at the end of this report.

Other Material Considerations:

In February 2019, the Government published results of its Housing Delivery Test (HDT) for November 2018. This shows that Arun District Council has under-delivered on its housing targets (achieving only 91%). The Test recommends that all Councils achieving less than 95% prepare an Action Plan to set out how delivery rates will be improved. The Council's Authority Monitoring Report (AMR) was considered at

the Planning Policy Local Plan Sub-Committee in December 2019 and showed that the Council could no longer demonstrate a 5-year Housing Land Supply (HLS) as is required by the NPPF. The AMR reported a 3.7 year Housing Land Supply (HLS).

The reasons for the lower projected delivery include planning delays on some Strategic Allocations; poor quality schemes delaying approvals; developers unable to meet stated and committed timescales; strategic site applications not coming forward as anticipated and developer/market factors outside of local authority control.

Subsequently, in early February 2020, the appeal decision of the previous application was received. It is considered that this is a very important material consideration in respect of arguments concerning the principle of development and that this together with the particular material considerations discussed in that decision weighs against a decision in accordance with the Development Plan.

This appeal was solely dismissed on the grounds of significant and demonstrable harm to the character of Flansham by the change of the existing rural character of the appeal site to an urban area linking Felpham and Flansham and because the development would not satisfactorily recognise and respond to the intrinsic character of the countryside.

The Inspector considered the principle of development in the countryside and found that the stated housing land supply (HLS) of 3.7 years is incorrect and that the figure should actually be only 2.9 years thus representing a shortfall of 2.1-years. The Inspector gave this shortfall significant weight in the determination of the appeal.

The Inspector also stated that the most important policies for determining the proposal (policies C SP1, D SP1, D DM1 & HER SP1 of the ALP and Policy BB1 of the YNP) should be considered out-of-date. The appeal proposal was therefore solely determined on the basis of the NPPF presumption in favour of sustainable development and this found harm solely in respect of the character of the area not on any other matters.

The council is of the view that its AMR evidence is robust but that this needs to be improved. The Council is of the view that this will be more concise and transparent via signed Statements of Common Ground for the Strategic Allocations and the authority is now pursuing this. In the interim, the position on the 5 year HLS must necessarily remain at 2.9 years as determined by the appeal. The council will update its position in due course.

In addition, in February 2020 (a day after receipt of the appeal), 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 above appeal position reflects this buffer.

The Council's Action Plan published in June 2019 makes a series of recommendations in order 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 re-established and the HLS is progressed through plan making. It recommends that the Council consider inviting applications from landowners/developers on 'deliverable' HELAA sites to re-establish the 5 year housing land supply. The release of further land for housing will help to maintain delivery rates.

Conclusion on Matters of Principle:

The principle of development on this site is clearly contrary to the policies within the development plan. However, the policies of the ALP that relate to the supply of housing have reduced weight due to the

Council not being able to demonstrate an adequate supply of housing land. In addition, policies in the YNDP that relate to the supply of housing have even less weight because they relate to out of date housing needs as the policies were based on the 2003 Local Plan. Furthermore, the recent appeal decision was solely dismissed on the grounds of significant and demonstrable harm to the character of Flansham.

It is therefore considered that this application should not be determined as being unacceptable in principle and that the development of this countryside site can be considered acceptable subject to an assessment of whether the proposal represents sustainable developments and whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

AGRICULTURAL LAND:

According to figure 2 of the YNDP, the site is classified as Grade 1 agricultural land. Policy E1 of the YNDP states "Planning permission will be refused for development on grade 1 and grade 2 agricultural land unless: (1) it involves the granting of planning permission for the development of the housing allocations identified in this Plan (Policy SA1 and Policy SA2); or (2) it involves the granting of planning permission for any additional housing sites required by Policy H1 to meet objectively assessed housing needs in the Plan area."

The Figure 2 map is based on data provided by the national Provisional Agricultural Land Classification Grading system (ALC). This data is not based on site specific surveys but instead is assessed using various criteria including temperature, rainfall, aspect, exposure, frost risk, gradient, micro-relief, flood risk, soil depth, soil structure, soil texture, ground based chemicals and stoniness. The ALC uses a grading system to assess and compare the quality of agricultural land at national, regional and local levels. It assesses the potential for land to support different agricultural uses, such as growing crops for food. It doesn't consider the land's current use or intensity of this use.

ALP policy SO DM1 considers soils and states: "Unless designated by this Plan or a Neighbourhood Development Plan, the use of Grades 1, 2 and 3a of the Agricultural Land Classification for any form of development not associated with agriculture, horticulture or forestry will not be permitted unless need for the development outweighs the need to protect such land in the long term."

The applicant has not supplied any information to justify the proposal against the requirements of this policy. As the site includes grade 1 land it could support the growing of crops. In the recent appeal decision, the Inspector stated that it has not been demonstrated that the loss of this quantum of the best and most versatile agricultural land would have a significant effect on local farming enterprises and consequently he gave this very limited weight. The Council has no evidence to make a case for the retention of this agricultural land and in the officer report for the previous application stated that:

"The size of the vacant parts of the site are only approximately 0.95 hectares and the site is physically separated from adjacent agricultural land to the west by a public footpath. Furthermore, although the land may have the soil quality for the growing of crops, it is noted that nearby land is all in pasture use and it is likely therefore that any future agricultural use of the application site would be limited to the grazing of cows or sheep. Indeed the nearest arable agricultural land is on the western side of the settlement of Flansham where there are several fields close together such that a viable agricultural operation can be supported."

It is therefore considered that the site has limited value for agriculture and that the need for additional housing land to boost the Council's severe housing land supply shortfall is such that the loss of this grade 1 agricultural land can be sustained.

Policy SO DM1 then states that if development is permitted by the policy, the applicant should submit mitigation measures and a soil resources plan for the development site. The applicant has not provided any such documents and there is therefore additional conflict with the ALP policy. However, these could be secured through a planning condition and therefore, this could not be defended on appeal.

On this basis, it is not considered that the conflict with the relevant policies for the protection of high value agricultural land is such that a refusal can be justified.

CHARACTER AND DESIGN:

Policy D DM1 of the Arun Local Plan requires that the Council seek to make the best possible use of land by reflecting or improving upon the character of the site and the surrounding area. It requires the Council to consider scale, massing, aspect, siting, layout, density, building materials, landscaping, and design features. It is necessary that development demonstrates a high standard of architectural principles, use of building materials and hard and soft landscaping to reflect the local area. In terms of density, D DM1 requires that housing makes efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development keep within the general confines of the overall character of a locality.

ALP policy D SP1 "Design" requires development to make an efficient use of land and also reflect local character. There are no relevant design policies in the YNDP.

Paragraph 127 of the NPPF states that "Planning policies and decisions should ensure that developments: (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)." Para. 122 states that planning decisions should support development that makes efficient use of land but the desirability of maintaining an area's prevailing character and setting should be considered. Para. 130 states that planning permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The National Design Guide (September 2019) forms part of the Government's collection of planning practice guidance. Paragraphs 20-21 of the Design Guide explain how good design should pay regard to place and context and that 'a well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. Part 2 of the Guide sets out ten characteristics for good design, namely Context, Identity, Built form, Movement, Nature, Public spaces, Uses, Homes and buildings, Resources and Lifespan.

The application is outline and does not seek the approval of layout, external appearance, scale or landscaping. Although an indicative layout is provided it is not possible to determine the application on the basis of this. However, it would be appropriate to assess whether residential development in this location would be acceptable in the context of the character of Flansham.

Although it is noted that the community has set out, within the YNDP, a desire to designate Flansham as a Conservation Area, currently there is no Conservation Area designation either in place or formally proposed. However, Flansham does contain a number of listed buildings, buildings of character (locally listed buildings) and other non-designated heritage assets. The YNDP describes the hamlet of Flansham to be the oldest settlement in the district and notes that in 1844 there were 12 dwellings loosely scattered around a junction of three lanes. Flansham is therefore considered to have a historic character to it.

Furthermore, Flansham is a distinct 'settlement' separate to Felpham & Yapton. It has two farms within its boundaries and a number of existing dwellings have been converted from agricultural buildings. It is also predominantly surrounded by agricultural land. Therefore, in addition to its historical character, it is considered to also be agricultural and semi-rural in nature, particularly the application site itself.

Although parts of Flansham are fairly high in density, this is as a result of the conversion of former agricultural buildings into dwellings, particularly within the central core and should not serve to justify a dense form of modern residential development on the edge of the hamlet. Furthermore, the character of Hoe Lane extending west from the application site is more one of large dwellings set in large plots.

The Councils Conservation Officer describes Flansham as having a very distinctive character and still maintains the feeling of entering a country lane. The Conservation Officer further states that:

- The local area consists of approximately 50 houses of which 4 are listed and 5 are locally listed;
- It is believed that the hamlet of Flansham grew up around the two historic farmsteads with linear development along Hoe Lane in more recent times including in the twentieth century;
- Some of the farm buildings have been converted to residential dwellings and commercial units;
- A third farm, Rookery Farm, lies a short distance to the east of the main area;
- It is noted that some of the properties have been and continue to be extended and altered to meet the needs of the current occupiers;
- The proposed development is situated within an area which has a special character that is in strict contrast with the surrounding, more suburban development;
- The hamlet has a relatively older, dense core with an increasingly looser distribution of buildings to the North as the hamlet form recedes to agricultural land;
- To the south/south-east along Hoe Lane, properties are well set back in isolated plots;
- Some of these properties are well screened with dense vegetation, including mature trees;
- Materials such as flint, brick and a variety of architectural styles and periods contribute to the character, and although typical of the area, are special in their contribution to the hamlet as a whole; and
- Properties vary in appearance throughout the hamlet.

The Conservation Officer believes that the proposal will be out of keeping with the hamlet in that the developed area of the site would be greater in depth than that of the existing developed area and would not follow the linear pattern of development along Hoe Lane. The Officer considers therefore that the proposal would be viewed as a separate enclave of development made up of the proposal and the building known as Flints. Furthermore, the Officer considers that there is currently little visual linkage between Flansham & Felpham and that this would change if the development were to take place.

The Conservation Officer also considers that development in this location would remove the sense of leaving Flansham when traveling both along Hoe Lane eastwards and using the neighbouring footpath to the immediate west of the site. The Officer notes the Appeal Inspector's comments at para 24 and states that he does not disagree with the Inspector's approach.

It is accepted that the proposal has made a significant reduction in the quantum of development when compared to the first application ref Y/40/17/OUT. However, the Council remains of the opinion that the scheme still represents an overdevelopment of this site and that this would result in harm to the agricultural and semi-rural character of this part of Flansham and Hoe Lane.

The Council has no reason to disagree with the comments of the Appeal Inspector in respect of character as set out below:

"Because the developed area of the site would be in depth it would not follow the linear pattern of development along Hoe Lane. If designed as a farmstead this would better reflect the more in-depth

development of the two farmsteads, but I am not satisfied that the number and extensive nature of the proposed ten dwellings would necessarily be able to be delivered in a farmstead typology characteristic and forming part of Flasham;" and "Rather, I consider it would be viewed as a separate enclave of development made up of the proposal and Flints." (Para. 15)

"Currently travelling along this section of the Bognor Regis Relief Road (BRRR) there is a difference between the developed urban Felpham to the south and the distinctly more rural Flansham to the north. The BRRR and bunds on either side clearly mark in linear terms this change in character. Apart from along the section of Hoe Lane closest to the roundabout there is little visual linkage between the two settlements at present." (Para. 16)

"However, if the appeal site were to be developed it would be inevitable that there would be visual linkages across the BRRR as there was no suggestion that the site would be only developed in single storey form. While the vegetation on the bunds would help screen the development on the appeal site to some extent the development of the site would significantly and demonstrably harmfully change the difference in characters between the two settlements. There would be the linking of the two settlements significantly and demonstrably harmful to the character of Flansham as a separate hamlet. Restricting the development to single storey form would be out of character with the nature of development in Flansham which consists principally of houses and converted farm buildings." (Para. 17)

"As noted above, there is a footpath to the west of the appeal site. From the section running through the field, currently the appeal site is partially screened by what appeared to be brambles and some other intermittent vegetation, including some trees protected by a Tree Preservation Order. Whatever the layout on the appeal site the proposal would be seen from this section of footpath and it would remove the sense of leaving Flansham in walking south out of the corridor, past Flints, through the countryside in the field and arriving at the BRRR and the development at Felpham, and vice versa in walking north." (Para. 18)

It is also noted that the applicant states that the development would be designed so that it reflects the character of the hamlet with the use of traditional materials and that the layout will be designed to reflect a farmstead. However, this application does not seek approval of any detailed design matters (layout, scale, appearance) and therefore, this application should not be determined on the basis of these statements.

It is considered that the proposed development fails to comply with all of the characteristics for good design as set out in the National Design Guide namely Context and Identity.

Therefore, the proposal is in conflict with the development plan and in particular policies D DM1 & D SP1 of the Arun Local Plan, paragraphs 122, 127 & 130 of the National Planning Policy Framework and the National Design Guide.

HERITAGE ASSETS:

It is not considered that the proposed development would affect the setting of any Listed Buildings (the nearest, Flansham House, being 110m from the north western corner of the site) and nor would it affect the setting of any Buildings of Character as the closest, Chessels, is physically separated from the application site by the public footpath and also the curtilage of Jem House. However, the site does adjoin with the curtilage of Bonhams House which was formally delisted in 2013 and is considered to warrant continued protection as a non-designated heritage asset.

ALP policy HER SP1 provides for the protection of non-designated heritage assets and states that the setting of such assets should be conserved and enhanced in a manner appropriate to their significance

and contribution to the historic environment. Further, that development likely to prejudice any of the above, including their settings, will be refused.

It is also necessary to consider policy guidance in the NPPF which sets out several steps when considering impact on heritage assets. Paragraph 197 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing up such applications, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The Conservation Officer has assessed the proposal (comments are set out in full on the Councils website) and states that:

- As noted by the appeal inspector, the delisting of Bonhams related to its national architectural and historic interest rather than any local interest;
- The significance of Bonhams derives from its original date, its evolutions and the origins of the building in relation to the hamlet of Flansham;
- Bonhams has not been formally recognised as Building of Character because the local list has not been updated since its production. However, as the delisting of Bonhams post-dates the adoption of the local list, the building can be treated as a non-designated heritage asset;
- The proposed development could be visible from within the curtilage of Bonhams particularly during the winter months;
- The proposed development may therefore cause some harm to the setting of this non-designated heritage asset but this would be at the lower end of the spectrum;
- The proposal could also harm the character of the hamlet itself; and
- Whilst it is not identified in any document as being such an asset, it is considered that the hamlet of Flansham has some heritage significance which requires further consideration. However, as there is no defined boundary for the area, limited weight can be allocated to its significance at this time.

The Conservation Officer concludes that the development would cause harm to the setting of the non-designated heritage asset but that this harm would be at the lower end of the spectrum. It is therefore considered that the balance as set out within para. 97 of the NPPF should be weighted in favour of the benefits of the development. This reflects the approach that the appeal Inspector took. Therefore, whilst there is some conflict with ALP policy HER SP1, in accordance with the guidance in the NPPF, this can be resolved in favour of the proposal.

HIGHWAYS AND PARKING:

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. In respect of highway safety, it states: "The Council will support transport and development which: explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

In respect of parking, T SP1 states: "The Council will support transport and development which: Incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking". In addition, policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes, contribute to the improvement of such routes & facilities and contribute towards the provision of a joined-up cycle network and Public Rights of Way network.

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which 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."

The advice of WSCC Highways is summarised above and it is clear that they continue to raise no objections to the proposed intensification of the existing access. In addition, it should be noted that the Appeal Inspector stated that: "I am satisfied that the proposal would provide for safe and secure access to the site for all users".

As layout is a reserved matter and there are no details as to the size of the houses or the exact form of parking provision, it is not appropriate to consider parking provision at this time. Instead compliance with the Arun Parking Standards SPD will be considered at the reserved matters stage.

WSCC Highways do not consider that the proposals would 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 (para 109), and that there are no transport grounds to resist the proposal.

On this basis and noting that the appeal Inspector also was satisfied that the proposal would provide for safe and secure access to the site for all users, the proposal accords with the relevant development plan policies.

TREES:

Arun Local Plan policy ENV DM4 states that "Development will be permitted where it can be demonstrated that trees protected by a Tree Preservation Order(s), (TPO) identified as Ancient Woodland, in a Conservation Area or contributing to local amenity, will not be damaged or destroyed now and as they reach maturity".

YNDP policy E4 states that 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.

The submitted illustrative plans demonstrate that the proposed development will retain the majority of the significant trees within the site and those around the garden of Bonhams. The most significant thirteen of these trees have been protected by Tree Preservation Orders (TPO). The submitted visibility drawings also show that only a few trees will need to be felled or pruned to facilitate the access widening and visibility splays. It is not considered that this will have an adverse effect on the character of the street scene.

The submitted indicative layout plan also suggests that the development will be subject to a comprehensive landscaping scheme which will encompass several new trees including orchard planting and will therefore compensate for any to be lost. It is also noted that the existing hedgerows to the western, southern and eastern boundaries are to be retained.

The Councils Tree Officer has not responded to the application. However, the tree officer advised on the previous application (Y/20/18/OUT) and raised no objection subject to the receipt of an Arboricultural Method Statement report including a Tree Retentions & Removals Plan and a Tree Protection Plan at the reserved matters application stage. As layout remains a reserved matter and as such, a positive decision on this application would not sanction any damage to protected trees, there is no reason to take a different view.

On this basis, it is considered that the proposed development complies with the relevant policies but that a more thorough analysis will be required at the reserved matters stage.

BIODIVERSITY:

ALP policy ENV DM5 states: "Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

YNPD policy E3 seeks to prevent the 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. Paragraph 175 of the NPPF states: "If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;"

The application is accompanied by a Preliminary Ecological Appraisal Phase 1 Habitat Assessment, a Bat Activity Survey Report, a Reptile Presence/Absence Survey Report and a Great Crested Newt Presence/Absence Survey & Population Assessment all prepared by a chartered ecologist. These have been assessed by the Councils ecologist who has raised no objections subject to mitigation & enhancement measures being secured through conditions. It is noted that one of the TPO trees supports a bat roost and a 10m buffer will be required around this, however, this can be agreed at the reserved matters stage when layout is considered.

Overall, subject to the ecological mitigation measures being secured by planning condition, it is considered that the proposed development would be in accordance with the relevant development plan policies and that a net gain in biodiversity can be achieved.

RESIDENTIAL AMENITY:

Arun Local Plan policy D DM1 requires the Council have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance." Policy QE SP1 states the Council will ensure that development does not have a significantly negative impact upon residential amenity. It is necessary to have regard to para 127 (f) of the NPPF which states that planning policies and decisions should ensure that developments create places that have a high standard of amenity for existing and future users.

In addition, the Council has an emerging Design Guide which has recently completed its consultation stage (09/01/20 to 21/02/20) and which sets out guidance on garden sizes and interface distances between houses.

It is not considered possible to make a detailed assessment of residential amenity at this stage given that layout, scale and appearance are all reserved matters. However, in principle it is not considered that any of the proposed dwellings shown on the illustrative layout would be sited in such a way as to result in any harm to the privacy, outlook or amount of light to the existing on-site dwellings or the neighbouring property to the west.

In particular the illustrative layout shows that there would be over 65m between the closest points on Jem House and proposed plot 01. The illustrative layout also suggests that the garden immediately on the other side of the public footpath from Jem House will be retained for Bonhams and not for a new

dwelling, thereby preserving an existing situation. Furthermore, the distance between the closest points on Flints and plot 01 will be at least 33m and this exceeds the 21m guideline distance as set out in the Council's emerging Design Guide.

Subject to a more detailed consideration of privacy issues at the reserved matters stage, it is not considered there would be conflict with policies D DM1, QE SP1 or para 127 of the NPPF.

PUBLIC OPEN SPACE & PLAY:

ALP policy OSR DM1 requires that housing developments provide sufficient public open space, playing pitch provision and indoor sport & leisure provision.

The Council's supplementary planning document (SPD) "Open Space, Playing Pitches, Indoor and Built Sports Facilities" (January 2020) sets out a requirement for financial contributions to off-site POS, play and allotments. With the introduction of CIL, it is no longer possible to secure any off-site contributions through a Section 106 Agreement and instead, the Council will be able to make a bid for a portion of the CIL payments collected to contribute to such provision elsewhere in the district. The proposal therefore accords with ALP policy OSR DM1.

SUPPORTING INFRASTRUCTURE:

Arun Local Plan policy INF SP1 states: "The Local Planning Authority will support development proposals which provide or contribute towards the infrastructure and services needed to support development to meet the needs of occupiers and users of the development and the existing community" and "Any on-site provision or financial contribution required to address unacceptable impacts must meet the statutory tests for planning obligations required by Regulation 122 of the Community Infrastructure Regulations 2010."

With the introduction of CIL it is no longer possible to secure financial contributions for off-site projects through a Section 106 Agreement. This development is CIL liable and will be subject to a rate of £150 per square metre to be collected upon the commencement of development.

As such, infrastructure providers such as WSCC and the NHS can make a bid for a portion of the CIL payments collected to spend on their own projects. The Parish Council will also be provided a portion of the CIL receipts. These payments will then go towards providing the infrastructure that the district needs to support existing and future development. On this basis, there is no conflict with ALP policy INF SP1.

SUSTAINABLE DEVELOPMENT:

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 National Planning Policy Framework (NPPF). Paragraph 8 of the NPPF states that in order to achieve sustainable development; economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

The following is an assessment of the benefits and costs associated with the proposal together with the advice of the Appeal Inspector in respect of the weight to be afforded to these. The Council does not disagree with the weighting used by the Inspector.

It is considered that the appeal location is environmentally sustainable in that it is possible to walk, cycle or take a fairly regular bus service to access nearby shops, services, places of employment and other facilities and that these are all within an appropriate distance such that it is not necessary to travel by car.

A full assessment of the accessibility of the site was provided within the officer report for a previous application, ref Y/40/17/OUT. The Appeal Inspector gave this factor moderate weight.

It is acknowledged that the development will result in a loss of some trees and the loss of some wildlife habitat, however, it is either considered that the costs are not significant or that mitigation measures will serve to overcome these losses. The Appeal Inspector gave the proposed environmental enhancements from additional landscaping only very limited weight.

It is considered that the proposal could help to support the local community by providing up to 10 new homes to help meet future needs. The Appeal Inspector gave this benefit significant weight. In addition, CIL receipts could be used to contribute financially towards local schools & libraries and as such, there would be a further benefit to the local community. The Appeal Inspector considered these benefits to be neutral as they are to ensure that effects of the development are mitigated.

In respect of the economic objective, there are both costs and benefits. The benefits would consist of:

- (1) An increase in Council Tax receipts;
- (2) Potential 'New Homes Bonus' payments from the Government;
- (3) The creation/maintenance of construction jobs; and
- (4) Additional spending by new residents on local goods & services.

The Appeal Inspector gave no weight to point (1), limited weight to point (2), moderate weight to point (3) and significant weight to point (4).

The loss of grade 1 agricultural land is noted however the land is currently unused for such and it is not considered that there is any potential for it to be so used in the future. This is discussed in more detail elsewhere in this statement. The Appeal Inspector gave this economic cost very limited weight.

Paragraph 11 (d) of the NPPF sets out the application of the 'presumption' for sustainable development which is triggered where the Council's policies most important for determining the application are out-of-date. This states that 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.

The Council has no reason to disagree with the Appeal Inspectors conclusion that the proposal will result in harm to the character of Flansham and that this adverse impact significantly and demonstrably outweighs the benefits of the proposal as set out above. For this reason, the proposal does not represent sustainable development.

SUMMARY:

This outline application considers the development of this site with 10 residential dwellings. Access is to be as per the existing with some improvements to its configuration. Other matters regarding design, layout, appearance, scale and landscaping would be the subject of a reserved matters application.

The principle of development on this site is contrary to the policies in the development plan but these policies are out-of-date as the Council are not able to demonstrate an adequate supply of housing land. However, the proposal does not represent sustainable development as the harm to the character of the area significantly and demonstrably outweighs the benefits of the proposal.

It is therefore recommended that the application be refused for the following reason.

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 proposal would constitute an over-intensive use of the site and a unsatisfactory form of development which would result in significant and demonstrable harm to the character of Flansham by the change of the existing rural character of the appeal site to an urban area linking Felpham and Flansham and would not satisfactorily recognise and respond to the intrinsic character of the countryside and is thereby contrary to policies D DM1 & D SP1 of the Arun Local Plan and paragraphs 122, 127 & 130 of the National Planning Policy Framework.
- 2 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 for the refusal, approval has not been possible.
- 3 INFORMATIVE: This development would be liable for CIL in accordance with the Councils CIL Charging Schedule available to view at: <https://www.arun.gov.uk/cil>.