

Recommendation Report for Planning Permission

REF NO: Y/7/22/PL

LOCATION: Land adjacent to Bonhams & Flints
Hoe Lane
Flansham
PO22 8NP

PROPOSAL: Erection of 4 No dwelling with access from Hoe Lane and associated landscaping, including native orchards and wildflower meadows. This application is a Departure from the Development Plan and is in CIL zone 3 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is for four detached, four bedroom, two storey dwellings. Three of these have their first floor within the roof whilst the fourth has its eaves level at the same height as the top of the first floor windows. The layout has been designed in a farmstead pattern with dwellings facing a central courtyard with a mix of rectangular and L shaped footprints. The dwellings will have clay-tiled barn-hipped, hipped and gabled roof forms and windows/doors of traditional timber joinery. All elevations will be finished in flint work with brickwork detailing framing the windows and doors. Each house has a double garage and there are four spaces in the courtyard and a further space adjacent to and in association with the easternmost dwelling. The existing site access is to be widened by 1m (by relocating the eastern access wall 1m east). The site plan shows the inclusion of a formal orchard, either side of the access road and along the southern site boundary, with the areas around the trees to be managed as wildflower meadow. The south-eastern corner of the site has been entirely reserved for flowering meadow planting. The layout retains access through to Flints.
SITE AREA	1.15 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	3.47 dwellings per hectare.
TOPOGRAPHY	The site is predominantly flat but is noted to be between 1 and 2m lower than the level of the A259 to the south. It is only possible to view the site from certain external ground level viewpoints - namely the vehicular entrance, the south

western corner where the footpath meets with the A259 Bognor Regis Relief Road (henceforth abbreviated as BRRR) and from the area where the pond sits between the south eastern boundary and the hedge which it 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 enclose the southern and western boundaries of Bonhams garden. TPO (TPO/Y/2/18) was made in respect of a Hornbeam 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).

There are other trees fronting Hoe Lane, bordering the footpath on the western side and dotted throughout the site. There is an established hedge along the boundary with the A259 BRRR. The application proposes only safety works to trees and all houses are well outside of the Root Protection Areas of the notable trees.

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.

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 wider site (i.e. including Bonhams & Flints) consists of three parts. First, the dwelling Bonhams, with its large gardens. This 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. It is a 17th-century house and was remodelled with walls of knapped flint and brick in the early 18th century. It was formerly a listed building but was delisted in 2013. It has a large well-maintained garden on its eastern and southern sides and there are small timber sheds. Bonhams has principal windows on all elevations.

Secondly, the smaller dwelling known as Flints Cottage to the south of Bonhams. This is a two-storey dwelling which backs on to the public footpath and is similarly built from a mix of flint, brick and clay tiles. This 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 a field to the south which shares access with both dwellings. On the most recent site visit, this was covered in scrub planting and there was evidence of log piles and some waste materials. The remains of old single storey buildings lay 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 public footpath. This connects Hoe Lane with the 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 but the site most clearly falls within the setting of Hoe Lane.

Hoe Lane has 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. 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) in Flansham and five locally designated Buildings of Character. Bonhams was previously a listed building.

The Yapton Neighbourhood Development Plan (YNDP) 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."

The emerging YNDP proposes the designation of Flansham as an Area of Character and House 1 would be sited in the proposed designation.

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

RELEVANT SITE HISTORY

Y/77/19/OUT	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	Refused 03-04-20
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 Appeal: Dismissed 12-02-20
Y/40/17/OUT	Outline application with some matters reserved (access only) for the erection of 23 No. dwellings with access from Hoe Lane, Flansham. This application is a Departure from the Development Plan.	Refused 09-02-18

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.

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

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

The applicant appealed which was determined by an informal hearing held on 15 January 2020 and for which the appeal decision was issued on 12 February 2020. This appeal was dismissed on the grounds of significant and demonstrable harm to the character of Flansham by the change of the 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 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 considered the housing land supply (3.7 years) as stated by the Council at the time was incorrect and that the HLS figure should actually be 2.9 years. The Inspector dismissed 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 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. 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.

Y/77/19/OUT ran on a similar timeline to the appeal but the applicant would not agree to its withdrawal so it was refused for the same reasons as the appeal decision.

REPRESENTATIONS

Yapton Parish Council (YPC) object for the following reasons:

- Hoe Lane (Flansham) has never been designated as an area within Yapton for future housing growth;
- The site is in the countryside; and
- The close proximity of the access point to the A259/B2259 roundabout.

10 letters of objection and 1 of 'no objection'. The letter of no objection raises an issue regarding land ownership in that as of 14/12/21, Bonhams is no longer owned by the applicant and there are no rights of access over/under it. The objectors concerns are as follows:

- Conflict with the development plan;
- Will set a precedent for more development in Flansham;
- Harm to proposed Area of Character;
- New houses & estate development not in character with old buildings/built layout within Flansham;
- Highway safety due to proximity to the roundabout;
- Proposed widening of the access should rebuild the wall in the same materials;
- Parking of construction vehicles on Hoe Lane;
- No maintenance access to the meadow;
- How will the meadow be managed;
- Overlooking of Bonhams' Gardens from two end windows on House 1;
- Need for further Great Crested Newt Surveys;
- Disconcerting that the meadow will be owned by a non-Flansham resident;
- Risk of trespass onto adjacent land; and
- Permitted development rights should be removed.

COMMENTS ON REPRESENTATIONS RECEIVED:

All YPC concerns and the bulk of the objections are discussed in the conclusions. Precedent is capable of being a material planning consideration, however, every application has to be considered on its own merits and a development here would not automatically result in further development nearby. Conditions could be imposed to secure any works to the wall, to control the parking of construction vehicles, to provide for future management of the meadow area and to strengthen any existing boundaries to prevent unlawful access. It may be appropriate to restrict permitted development rights but this needs to be justified against policy. Land ownership issues are not capable of being a material planning consideration. There is space shown between the two southernmost houses to enable access into the field for maintenance.

In response to the 'no objection' letter, the applicant amended the location plan to remove the blue edging. They advised that the drainage strategy would be revised so that there would no longer be any pipes shown crossing the Bonhams land. A revised drainage statement was submitted on 15/03 and the applicant requested that the drainage engineer be re-consulted. As the decision was due on the 22/03, it was not possible to accept this amendment whilst attempting to respecting the statutory determination period.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

NATURAL ENGLAND - No comments.

SOUTHERN WATER - one of the houses and the parking area/road lies over the rising main and so the layout needs to be revised or the rising main diverted. This necessitates a condition. Requests an informative relating to new foul connections.

WSCC HIGHWAYS - no objections subject to conditions to secure the access works, car parking, cycle parking and electric vehicle charge points but state that the garages are undersized versus the standards and so cannot be considered. Comment:

- the access widening would be beneficial as it would improve visibility and allow for better manoeuvrability for service vehicles accessing the development;
- do not anticipate that the proposals would give rise to a significant material intensification of movements to or from the site;
- no apparent visibility issues with the existing point of access on to Hoe Lane and the application demonstrates suitable visibility splays;
- the applicant has demonstrated on-site turning for both a fire appliance and refuse vehicle via swept path tracking; and
- the site is sustainably located.

ADC ENVIRONMENTAL HEALTH - no objection and request conditions relating to contamination, noise from the A259 and construction hours.

ADC DRAINAGE ENGINEERS - no objection subject to conditions. State:

- the supplied Flood Risk Assessment (FRA) appears to contradict itself, in section 5 it is suggested that the development will be drained using permeable paving and soakaways whilst in section 7 it is

suggested that all surface water will eventually be discharged to the neighbouring watercourses. -- no site investigations have been provided to support either strategy;

- infiltration must be fully investigated before considering a scheme which attenuates surface water and discharges it to the watercourse;
- if infiltration is proven to be unviable then calculations for the discharge rate must consider the positively drained area only;
- any proposal to connect surface water to an ordinary watercourse will require ordinary watercourse land drainage consent and improvements to the watercourse may be required to ensure it is capable of accepting additional flow;
- there is a foul rising main sewer running across the site and house 2 is proposed directly over the pipe. This is unlikely to be acceptable to Southern Water who will require strict easements and, if the layout is approved. for the sewer to be diverted; and
- existing and proposed trees (root protection zones) must not conflict with suds features/pipework.

ADC CONSERVATION OFFICER - the proposal will result in less than substantial harm and on the lower end of the scale and as such public benefits will need to be identified and the proposal determined in accordance with the relevant development plan policies. Comment as follows:

- the design of the new dwellings attempts to make them look as though there were converted from supposed former barn structures, with a number of details that the applicants consider are reflective of their supposed former use.
- the design & access statement identifies that the roofs will be clay tiled and windows and doors will be of traditional timber joinery. All elevations will be finished in flintwork with brickwork detailing framing the windows and doors.
- such materials will attempt to help soften the buildings and help in their suggested former barn complex context. There is some logic to this approach.
- the success of the design will be down to details and other materials proposed. The use of pre-made concrete and flint blocks will detract from the final appearance and not be suitable/supported.
- windows and doors should be appropriately designed (no applied glazing bars etc.) and positioned within their openings so as to create the appropriate shadow lines.
- likewise, other materials should be appropriate for the type of buildings proposed and the roof lights should be of a conservation standard.
- It is not fully clear why so many roof lights are needed and these detract from the somewhat traditional elevations proposed. These details (and others) should be conditioned.

COUNCILS ECOLOGIST - further Great Crested Newt surveys are required in water bodies 6 & 7 in the form of eDNA assessments. If Great Crested Nets are found to be present then further survey work would be required. These surveys must be undertaken prior to determination and submitted as part of this application. Request conditions relating to bat friendly lighting, bat nesting opportunities, bird boxes, hedgehog protection & hedgehog nesting opportunities and biodiversity net gain.

COMMENTS ON CONSULTATION RESPONSES:

The parking and ecology issues are considered in the conclusions.

POLICY CONTEXT

Designations applicable to site:

Outside Built Up Area Boundary;
EA Flood Zone 1;
Future Flood Zone 3 (the access);

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
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HERSP1	HER SP1 The Historic Environment
HERDM4	HER DM4 Areas of Character
HERDM6	HER DM6 Sites of Archaeological Interest
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
	Dwelling size

Yapton neighbourhood plan 2014 Policy H3
 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
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
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.

Certain Yapton Neighbourhood Development Plan (YNDP) policies are relevant. Yapton are working on a revised YNDP2 and are at regulation 16 stage such that it is necessary to refer to the emerging policies (which propose modifications to the YNDP policies).

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 conflict with relevant Development Plan policies in that the site is located in the countryside, part on high grade agricultural land, there is insufficient parking proposed and the application fails to demonstrate that there will be no harm to protected species.

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

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

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan and these are set out in the conclusions section.

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. For this application, the development plan comprises the Arun Local Plan 2011-2031 (ALP), the Yapton Neighbourhood Development Plan (YNDP) and the West Sussex Waste and Minerals Plans (although none of its policies are relevant to this site).

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

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.

On the basis of the Councils Authority Monitoring Report (AMR) from January 2022, the policies most important for the determination in the ALP have reduced weight as Arun cannot demonstrate an adequate supply of housing land (HLS). Due to the HLS being below 3 years (2.42 years) and its age, the YNDP does not benefit from the support set out in para 14 of the NPPF. The NPPF presumption in favour of sustainable development is therefore unaffected by the Neighbourhood Plan.

Policy C SP1 states residential development in the countryside outside the BUAB will not be permitted unless it accords with policies in the Plan which refer to a specific use or type of development. None of these relate to the proposal. Policy SD SP2 states development should be focused within the BUAB. The proposal is outside the BUAB and so conflicts with ALP policies C SP1 and SD SP2.

The YNDP was made in November 2014 on the basis of saved policies in the 2003 Arun District Local Plan and the draft policies in the 2014 publication version of the (then) emerging ALP. The YNDP shows the site as being in the countryside.

YNDP policy BB1 states development outside of the BUAB will not be permitted unless in accordance with 4 listed criteria. Criteria 3 is where the development relates to additional allocations for housing land in accordance with YNDP policy H1 and this allows for an additional 20% of the ALP housing requirement (equating to 100 dwellings) but this number has already been significantly exceeded.

Above and beyond the 20%, the policy states that 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. Any approval of this proposal would be subject to a CIL contribution but there is no certainty that such money would be spent improving the school. Therefore, the proposal is in conflict with policy H1.

It is relevant that in determining the previous appeal, 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. On the previous appeal, the Inspector identified the HLS as being 2.9 years and gave this significant weight. As is clear from the

recent AMR, the HLS has dropped to 2.42 and so is now less than half of the requirement.

The emerging YNDP2 does not allocate additional housing land but acknowledges the contribution to housing need made by dwellings which have planning consent as at March 2021. The site would remain in the countryside in the YNDP2. When the YNDP2 is made, it will still not benefit from para 14 of the NPPF unless the HLS was to increase to above 3 years.

Other Material Considerations

In January 2022 the government published Arun's most recent Housing Delivery Test (HDT) results and showed that Arun achieved 65% thus triggering the application of the presumption in favour of sustainable development (although this is already being applied due to the HLS shortfall).

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.

It is material that the previous appeal for 10 dwellings was not dismissed on grounds of development in the countryside and that the HLS has fallen further since that decision.

Sustainability

The NPPF is an important material consideration in determining applications. As the Council cannot demonstrate a 5-year HLS, the 'presumption' for sustainable development is triggered. Para 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. ALP 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.

Despite its location, the site is sustainably located in that it 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 in the officer report for a previous application, Y/40/17/OUT and the appeal Inspector previously gave this factor moderate weight in the determination of the Y/20/18/OUT appeal.

It is acknowledged that the development will result in the loss of some wildlife habitat. The Appeal Inspector gave the proposed environmental enhancements from additional landscaping only very limited weight but it is material that this scheme now proposes significant orchard planting and to retain the bulk of the field as wildflower meadow.

The proposal could help to support the local community by providing 4 new homes to help meet future needs albeit that such large houses may not be affordable by those in particular need. The Appeal Inspector previously gave this benefit significant weight but that was for 10 homes not 4 as per this scheme. 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 required 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) the creation/temporary maintenance of construction jobs; and (3) additional spending by new residents on goods & services. The Appeal Inspector previously gave no

weight to point (1), moderate weight to point (2) and significant weight to point (3).

The loss of grade 1 agricultural land is noted however the land is unused for such and there is no potential for it to be so used in the future. This is discussed in more detail elsewhere in this statement but the Appeal Inspector previously gave this economic cost very limited weight.

Paragraph 11 (d) ii) of the NPPF states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for housing applications, where the Council cannot demonstrate a five year supply of deliverable housing sites), 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.

Conclusion on Matters of Principle:

The principle of development on this countryside site is in conflict with the ALP and the YNDP. However, due to the Council's HLS being below 5 years, the application would instead fall to be determined by the NPPF presumption in favour of sustainable development.

AGRICULTURAL LAND:

According to figure 2 of the YNDP, the site is classified as Grade 1 agricultural land. YNDP policy E1 states permission will be refused for development on grade 1 and grade 2 agricultural land unless 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 states unless land is allocated, then the use of Grades 1, 2 and 3a of the ALC 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 applicant states that due to the development of the BRRR, associated drainage infrastructure and the resultant reduction in size of the field, the site is no longer viable for agricultural use or part of an agricultural unit. However, as the site includes grade 1 land it could support the growing of crops. In the recent appeal decision, the Inspector stated that it had 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 the Inspector gave this impact very limited weight. The Council has no evidence to make a case for the retention of this agricultural land and in the officer reports for the two previous applications 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."

In allowing an appeal at Clays Farm, Yapton which concerned a refusal on loss of grade 2 agricultural land (Y/62/18/OUT), the Inspector noted the site was not being used for agriculture and that there was no evidence that the site would be so used in the future. The Inspector stated whilst this does not in itself justify the loss of agricultural land, it does act to reduce the level of environmental and economic harm caused by its development. It is material that this new application now proposes to retain the bulk of the existing field as a wild meadow thus allowing it to be in the future used for growing, if so desired, albeit on a very small scale.

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 small loss of grade 1 agricultural land can be sustained.

Policy SO DM1 makes it clear that in order to fully justify the loss of the agricultural land, the policy criteria (a) to (b) and (d) to (g) should be met. The applicant has not provided any such documents and there is additional conflict with the ALP policy. However, these could be secured through a planning condition and therefore, this could not be defended on appeal (particularly as this issue has already been considered by one appeal).

FLOODING & SURFACE WATER DRAINAGE:

The site is currently not affected by flooding from rivers/sea and is within Flood Zone 1. The Council's climate change mapping shows that parts of the site will be Flood Zone 3a by 2111. Notably, this includes the whole of Bonhams' property and the shared access but none of the proposed houses are affected. As such, it is not necessary to require a sequential site assessment in this instance and the development site remains within Flood Zone 1.

ALP policy W DM3 states all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS) as appropriate to the size of development. YNDP Policy E11 requires developments be designed and constructed to minimise the overall level of flood risk in the parish; and provide appropriate surface water drainage.

The Council's Engineer has a few concerns with the proposed drainage strategy (as set out above) but ultimately is content for this to be deferred to a future discharge of conditions. On this basis, there is no conflict with the drainage policies.

HERITAGE ASSETS:

The development does not 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 Chessels, is physically separated from the application site by the public footpath and also the curtilage of Jem House.

The site does adjoin with the curtilage of Bonhams House which was delisted in 2013 and is considered to warrant continued protection as a non-designated heritage asset. Furthermore, the YNDP2 intends to designate Flansham as an Area of Character which would also be categorised as a non-designated heritage asset. This designation would include house no. 1 with the rest of the proposal then bordering the designated area.

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. ALP policy HER DM4 states that new development within Areas of Character should preserve and where possible, enhance the special character of these areas, particularly with regard to the characteristics identified by the Local Planning Authority.

Para. 203 of the NPPF states in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The applicant have provided a brief assessment of heritage in their supporting planning statement. This states that the development would lead to less than substantial harm to the setting of Bonhams, this harm being at the lower end of the scale as similarly concluded within the recently dismissed appeal. The Councils Conservation Officer agrees with this position but recommends several conditions to ensure the quality of the design and the materials.

As set out in para 202 of the NPPF, where there is less than substantial harm, the Local Planning Authority must then weigh this up against the public benefits associated with the proposal. The benefits of a 4 dwelling development are minor in scale but there will still be benefits to the Councils current HLS shortfall; to the local economy through the creation/maintenance of construction jobs and additional spending by new residents on goods & services; from CIL receipts to local infrastructure; and an increase in Council Tax receipts.

In respect of para 203, it is suggested that the position of the previous Appeal Inspector be followed who determined that there would be limited harm to the setting of Bonhams. This new proposal is for less dwellings and a more traditional design so it can be argued that the impact is much less. The Area of Character has not yet been formally designated but the proposal will only have a limited impact on the area of the designation and the impact of the development as a whole will be much reduced due to the traditional design and the amount of proposed landscaping.

The proposal is in accordance with the NPPF guidance and the relevant policies of the development plan.

ARCHAEOLOGY:

The site is in a designated archaeological notification area. ALP Policy HER DM6 states where a site on which development is proposed has the potential to include heritage assets with archaeological interest, permission will only be granted where it can be demonstrated that development will not be harmful to the archaeological interest of these sites. The policy requires a desk based archaeological assessment be submitted. This is echoed by guidance in the NPPF (para 194).

The applicant has not provided supporting archaeological documents. The Council's Archaeologist was not consulted on this application but previously advised that the archaeological potential of this site could be investigated further through an appropriate planning condition. On this basis the conflict with HER DM6 would not be defensible at appeal.

TRAFFIC & ROAD SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for

traffic, cyclists and pedestrians and provide appropriate levels of parking.

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

WSCC Highways raise no concerns with the safety of the widened access junction or its intensification by 4 dwellings. It is material that they raised no objections on the previous applications (which were for a greater number of dwellings) and that the previous Appeal Inspector stated that: "I am satisfied that the proposal would provide for safe and secure access to the site for all users".

Policy T DM1 requires new development be located in easy access of established non-car transport modes/routes. As already discussed, the site is sustainably located and new residents will have realistic alternatives to the use of the car.

The Council's Parking Standards SPD sets out a need for 12 allocated spaces (3 each) and 1 visitor space. The SPD states that single garages must be at least 6m x 3m internally and would then be regarded as providing half an allocated space. Whilst no measurement is given for double garages in the SPD, the Government's Manual for Streets states that these should be 6m by 6m. The double garages are 5.5m by 5.3m and so cannot be treated as providing the full amount of parking. On this basis, the scheme is deficient against the required parking standards. This could lead to overspill parking on Hoe Lane resulting in highway safety concerns and/or conflicts with existing residents.

The Arun SPD requires cycle storage to cater for 2 cycles per dwelling. The application proposes that cycles be stored in the garages. This is acceptable however it will further reduce the available space in the garages for car parking. YNDP policy PK1 is relevant in respect of car parking but sets out the same standards as in the SPD.

There is conflict with ALP policy T SP1, YNDP policy PK1 and the Parking Standards SPD in respect of the car parking provision.

CHARACTER AND DESIGN:

ALP policies D SP1 and D DM1 require development make the best possible use of land by reflecting or improving on the character of the site/surrounding area. Policy LAN DM1 states development should respect the particular characteristics & natural features of the relevant landscape character areas and seek, wherever possible, to reinforce or repair the character of those areas.

YNDP policy H1 refers to encouraging small-scale residential developments that are sympathetic to their surroundings and providing well-designed dwellings that are sympathetic to the character of the village. Emerging YNDP2 policy H4 encourages high quality & sympathetic design, appropriate density and sufficient outdoor space.

The National Design Guide (NDG) has full weight as a material consideration in the determination of this application. This states that achieving a well-designed place comes about through making the right choices at all levels, including the layout (or masterplan), the form and scale of buildings, their appearance, landscape, materials and their detailing. The applicant does not acknowledge this document in their Design & Access Statement.

The Arun Design Guide is a material consideration. The Design Guide suggests a density of 5-15

dwellings per hectare in rural settlements. The site density of 3.47 is less than this but is not significantly different to the overall density of Flansham (4.6 dph) and this is acceptable.

Section Q of the Design Guide provides guidance on rural development. The proposal meets this guidance as the development integrates into the landscape setting through the farmstead/courtyard layout and integration of strong landscape features (orchard, wild meadow) plus generous gardens. The dwellings will have a consistent and simple form comprising rectangular floor plans and pitched or half-hipped roofs. One gable end roof is proposed but as it is an exception, it is acceptable. It appears that the applicant has followed the Design Guide closely in drawing up the plans and this is positive. Conditions could be used to secure hedging to the new boundaries further strengthening landscape integration. Parking is either hidden away in garages or centralised thus minimising the impact of hardstanding on the surrounding landscape.

Conditions will be required to secure various detailed elements of the design including materials, joinery, window/door recesses but subject to these, the proposed development would not harm the character & appearance of the locality and the proposal complies with the relevant design policies as set out above.

LANDSCAPE & TREES:

ALP policy ENV DM4 requires protected trees, Ancient Woodland, those in a Conservation Area or trees that contribute to local amenity are not damaged or felled unless the development meets the certain criteria including that the benefits outweigh the loss of trees or woodland. Policies LAN DM1 and D DM1 are also relevant in terms of landscape integration.

YNDP policy E4 states development sites should retain well-established features of the landscape, including mature trees and species-rich hedgerows. New tree planting will be required to mitigate any significant loss. Emerging YNDP2 policy E4 requires that native tree species be used.

Neither the Councils Landscape Officer nor Tree Officer have commented. It is clear from the supporting documents that none of the Root Protection Areas of the TPO trees are affected by proposed buildings or hardstanding. Some safety works are proposed including the felling of a dead Poplar but the affected trees are all outside of the site area (within Bonhams) and none are TPO's.

It is material that the tree officer raised no objection on Y/210/18/OUT which sought additional development (10 houses) on a larger area of the site. The Councils Landscape Officer raised no objection on Y/77/19/OUT. Conditions would be necessary to ensure that trees are protected during construction and to secure the precise details of landscaping (including the use of native species) and to secure a landscape management plan for the wild meadow & orchard areas. There is no conflict with the relevant development plan policies.

BIODIVERSITY:

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

The application is accompanied by an Ecological Survey. This identified the potential for Great Crested Newts (GCN), suitable habitat for foraging & commuting Badgers/Hedgehogs and low quality habitat for foraging bats. It recommends further phase II work to establish the presence/likely absence of GCN which will then inform any required mitigation and compensation. The Appraisal proposes other mitigation and enhancement measures to mitigate impacts on other species and secure

biodiversity net gain. This includes the orchard and wild meadow planting.

The Councils ecologist has reviewed the submission and has highlighted the need for further GCN surveys stating that this needs to be submitted prior to determination. This reflects Government standing advice that surveys are required where there is suitable habitat on the site to support protected species and they may be affected by the development; that conditions should not normally be used to secure surveys because it is necessary to consider the full impact of the proposal on protected species before granting planning permission; and that permission can be refused if surveys do not provide enough evidence to assess the likely negative effects on protected species.

The applicant advised that the GCN survey results will be ready for submission in April but the application due date is in March and it is not appropriate to extend the time where something is required that the applicant was aware of and which should have been submitted with the application.

Aside from this, all other identified impacts can be mitigated through conditions and the new habitat creation (wild meadow & orchard) which will clearly demonstrate significant biodiversity net gain. Conditions can be used to secure bat friendly lighting and bat/bird/hedgehog nesting opportunities. However due to the insufficient information relating to GCN, the proposal currently conflicts with ALP policy ENV DM5, YNDP policy E3 and the NPPF.

RESIDENTIAL AMENITY:

ALP policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. Policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. The Council's Design Guide sets out the following guidance on 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.
- Back to Boundary: min. 12m between habitable rooms and site boundary to existing landscaping.

There are no standards for side to side or front to back and the only requirement for the interface to a neighbouring garden is 10.5m in a back-to-back arrangement. The proposal provides in excess of the standards to both Bonhams & Flints and plot 1 provides for a distance of 11m from its rear to the boundary with Bonhams garden. There is no conflict with the Design Guide in this respect.

Although the houses all face each other, they are predominantly sufficiently distant from each other so as to meet the 16m requirement. The only exception is house 1 to house 4 however the views between these are at an oblique angle and both have no amenity issues to their rear elevations. The slight intensification of the access will not harm the amenities of the existing dwellings as their windows are a significant distance from this point.

All relationships between proposed/existing and between proposed dwellings are acceptable and ensure a good standard of amenity for existing and future users. The scheme accords with ALP policies D DM1, QE SP1 and with the Design Guide.

QUALITY OF ACCOMMODATION:

ALP policy D DM2 states that internal spaces should be of an appropriate size and that the Nationally Described Space Standards provide guidance. All four houses exceed the required space standards.

The Arun Design Guide requires rear gardens are a minimum of 10.5m deep and front gardens at least 2m. All four houses have significant areas of rear garden which meet the rear depth requirement. All four also have 2m front gardens in part. The proposal provides a good standard of private space for future residents.

CLIMATE CHANGE:

ALP policy ECC SP2 requires all new residential and commercial development be energy efficient and incorporate decentralised, renewable and low carbon energy supply systems. ECC SP1 requires new development be designed to adapt to impacts arising from climate change. Emerging YNDP2 policy H5 supports development which meets the highest possible standards of environmental and energy efficiency. The application is silent on these requirements but a condition can be imposed to secure details to ensure compliance with the policy. A condition could also be included to require electric vehicle charge points.

SUPPORTING INFRASTRUCTURE:

ALP policy INF SP1 requires development proposals provide or contribute towards the infrastructure & services needed to support development to meet the needs of future occupiers and the existing community. This development is liable for CIL and infrastructure providers such as WSCC & the NHS can make a bid for a portion of the CIL payments collected to spend on their own projects. The Parish Council will be provided with 25% of the CIL receipts to spend on their own projects. These payments go towards providing the infrastructure that the district needs to support existing and future development.

SUMMARY:

The principle of development on this countryside site is in conflict with the ALP and the YNDP but it is material that the previous appeal for 10 dwellings was not dismissed on grounds of development in the countryside and that the HLS has fallen further since that decision. Given that the HLS is below 5 years, the application would fall to be determined by the NPPF presumption in favour of sustainable development.

This states that where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

The proposal largely accords with the policies of the development plan but there is unresolved conflict with both the ALP and older YNDP due to insufficient parking provision and insufficient information relating to species surveys. Government guidance is clear that the impact of development on protected species should be determined before permission can be granted.

Although the proposal represents sustainable development, in accordance with paragraph 11d of the NPPF, the Council concludes that there are significant and demonstrable negative impacts associated with the development that, when assessed against the NPPF as a whole, outweigh the presumption in favour of sustainable development. As such the application is recommended for refusal.

HUMAN RIGHTS ACT

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

Rights.

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

CIL DETAILS

This is a CIL Liabe development. It is in Zone 3 and a CIL amount of £135,235.33 would be payable unless the applicant applies for exemption subject to the requirements of the CIL Regulation 2010 (as amended). 25% of this amount (£33,058.83) would go to the Parish Council.

RECOMMENDATION

REFUSE

- 1 The application fails to sufficiently survey for Great Crested Newts on the site and as such there is insufficient information to determine the impact on protected species contrary to policy ENV DM5 of the Arun Local Plan, the NPPF and associated Government advice.
- 2 The proposal fails to provide sufficient car parking provision for this semi-rural location and this may result in overspill onto Hoe Lane with consequential impacts on highway safety/convenience and conflicts with existing local residents. The proposal is contrary to Arun Local Plan policy T SP1, the Arun Parking Standards SPD and the NPPF.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. 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.