

Recommendation Report for Planning Permission

REF NO: AL/116/18/PL

LOCATION: Land West of Fontwell Avenue
Eastergate
PO20 3RU

PROPOSAL: Variation of conditions 2, 10, 11 & 12 imposed under AL/121/16/PL relating to the substitution of the proposed site plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	It is proposed to replace the approved site plan with a newer version that reflects the internal road layout recently approved by AL/136/17/PL (which includes a new access onto the A29 and therefore excludes the large vehicle turning facility previously shown to be within plot 1).
SITE AREA	0.1829 hectares
RESIDENTIAL DEVELOPMENT DENSITY (NET)	10.9 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	* Low up to 1m high railing style fence to the site frontage; * Part 1.8m close boarded fence/part ranch style fencing to the boundary with Oaktrees; * Row of fir trees behind a part wire fence/part hedge to the rear of the site; and * 1.6m high close boarded fence to Westfield House.
SITE CHARACTERISTICS	Vacant field on which building operations are under way.
CHARACTER OF LOCALITY	The site is outside the settlement boundary but predominantly residential as there are dwellings on both sides of the site and on the opposite side of the A29. The site frontage falls within a 40mph zone and the start of the 30mph zone is adjacent to the southern end of the site. Westfield House is a two storey detached dwelling of a traditional style in brick and clay tile. It has no flank facing windows and has a conservatory on the rear adjacent to the shared boundary. Oaktrees on the other side is a 1.5 storey dwelling with its first floor accommodation within a Dutch hipped barn style roof. It has render to the lower floor, brick to the first floor flanks and a tile roof. It has flank facing windows at both ground and first floor (with the first floor window appearing to be a bedroom) and a row of roof lights on the rear. To the rear of the site, beyond the line of trees, there is a vehicle scrapyard.

RELEVANT SITE HISTORY

AL/117/18/PL	Variation of conditions 2, 6, 7 & 8 imposed under AL/122/17/PL relating to the substitution of plan BP/LP RevC with SP01 RevB (proposed site plan).	
AL/50/18/PL	Continuance of use without compliance with condition 10 imposed under AL/121/16/PL relating to vehicular access serving the development.	Withdrawn 19-10-18
AL/136/17/PL	Erection of pair of semi detached houses & new access onto A29 - This is a Departure from the Development Plan	ApproveConditionally 03-10-18
AL/122/17/PL	2 No. dwellings (resubmission following AL/72/17/PL). This application is a Departure from the Development Plan.	ApproveConditionally 14-02-18
AL/50/17/DOC	Application for approval of details reserved by condition imposed under AL/121/16/PL relating to conditions 4-surface water drainage, 5-scheme for protecting proposed dwellings from noise & 6-scheme to deal with contamination risk.	DOC Approved 13-06-17
AL/121/16/PL	2No. semi detached houses. This application is a Departure from the development plan	ApproveConditionally 01-02-17

Application AL/121/16/PL was granted planning permission at the Development Control Committee on the 1st of February 2017 and allowed for the development of two semi-detached dwellings on the northern third of the larger field. This permission is in the process of being implemented.

Applications AL/122/17/PL and AL/136/17/PL were approved in February and September 2018 respectively and granted planning permission for a pair of semi-detached houses on the other two plots. AL/136/17/PL also granted permission for a second access point onto the A29.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

No response was received from Aldingbourne Parish Council yet it is clear from the minutes of their

December 2018 Meeting that they did raise an objection to the application with the comment "APC supports the views of the Highway authority". However, APC have since confirmed that their objection is withdrawn as WSCC Highways are now happy with the scheme.

Two letters of objection from the neighbouring residential property raising the following three concerns:

- "(1) It is quite clear to us that these applications, which request variance on certain conditions contained within Planning applications AL/121/16/PL and AL/122/17/PL are as invalid as the originals;
(2) Application AL/121/16/PL is invalid in its present form, because the Council have already confirmed that no formal planning permission exists for access on to the A29 at this point and so any variance in condition must be technically impossible. This has been confirmed by the Planning Department in response to our Freedom of Information Request of October 2018."; and
(3) Notice must be served by the applicants on the adjacent plot owners whose land they must cross to enter/exit the site.

COMMENTS ON REPRESENTATIONS RECEIVED:

The Council does not consider it necessary for the applicant to apply for retrospective planning permission for the access for the following reasons:

- (i) There has been a field gate (allowing vehicular access from the A29 into the site) in position since 1995 and a dropped kerb is shown on the Google Map image in March 2009. Therefore there is no enforcement action that can be taken due to the passage of time (unauthorised development becomes immune after 4 years in the case of operational development such as the creation of an access); and
(ii) The planning permissions granted for the site include an access which has been granted after consideration of highway safety, regardless of whether there was an existing access or not.

With regard to serving notice on other affected land owners, it is only necessary to serve notice on other land owners affected by the application red edge. Therefore, both of the applicants for AL/116/18/PL (Mr Duggin) and AL/117/18/PL (Mr Norgate) have served notice on WSCC as the owners of the grass verge along the frontage (on which the visibility splays are located).

There is no further notice requirements for AL/116/18/PL as that red edge does not extend over any other land. However, as the red edge for AL/117/18/PL also extends over land in the ownership of Mr Duggin (the land subject to AL/116/18/PL), it has been necessary for Mr Norgate to also serve notice on Mr Duggin.

CONSULTATIONS

WSCC Strategic Planning

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - Originally raised objection on the grounds that the proposed plan did not properly reflect the access layout as approved under AL/136/17/PL and also that the visibility splays for the original access onto the A29 were not within the application red edge. WSCC's final comment was that: "Provided that the splay shown passing through blue edged land can be maintained in perpetuity, the replacement with this plan is acceptable."

COMMENTS ON CONSULTATION RESPONSES:

The applicants have provided a further plan which now satisfies the concerns of WSCC Highways and

which also shows the visibility splays as being within the application red edge. They have also served notice on WSCC due to the visibility splays being within highway land.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
 WSCC Mineral Consultation Area (Sharp Sand & Gravel);
 WSCC Waste Consultation Area (Sussex Recovery SRC, Fontwell Avenue);
 Special Control of Adverts;
 Part Flood Zone 2;
 Grade 3a Agricultural land; and
 Class A Road (A29).

DEVELOPMENT PLAN POLICES

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
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM5	ENV DM5 Development and biodiversity
HDM1	H DM1 Housing mix
HSP1	HSP1 Housing allocation the housing requirement
HSP2C	H SP2c Inland Arun
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
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
WSP1	W SP1 Water
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

Aldingbourne Neighbourhood Plan 2016 POLICY EH1

Resist development outside

Aldingbourne Neighbourhood Plan 2016 POLICY EH3

Best and most versatile resisted unless...

Development on Agricultural Land

Aldingbourne Neighbourhood Plan 2016 POLICY

Development in Flood risk areas will not be

EH5	supported unless...
	Surface Water Management
Aldingbourne Neighbourhood Plan 2016 POLICY EH6	Protection of trees and hedgerows
Aldingbourne Neighbourhood Plan 2016 POLICY GA1	Promoting Sustainable movement
Aldingbourne Neighbourhood Plan 2016 POLICY GA3	Parking and new development
Aldingbourne Neighbourhood Plan 2016 POLICY H1	New housing or altering dwellings
	Quality of Design
Aldingbourne Neighbourhood Plan 2016 POLICY H2	Range of house types
	Housing Mix
Aldingbourne Neighbourhood Plan 2016 POLICY H3	Housing density
Aldingbourne Neighbourhood Plan 2016 POLICY H6	Within built up area boundary
	Windfall sites
Aldingbourne Neighbourhood Plan 2016 POLICY H7	No support development near noisy business
	Development in the vicinity of business
Aldingbourne Neighbourhood Plan 2016 POLICY H8	Dwellings must have adequate private or shared amenity.
	Outdoor space
Aldingbourne Neighbourhood Plan 2016 POLICY H9	Items to consider e.g. - bin stores
	Attention to detail

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

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.

The Neighbourhood Development Plan

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

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 comply with relevant Development Plan policies in that the amendments to the scheme do not cause any harm to the safety and convenience of the local highway, the amenity of the surrounding area or the living conditions of neighbouring properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposal seeks to vary 4 of the planning conditions attached to the original planning permission but only in respect of the site layout and only then to reflect the layout of plots 1-3 as amended by the planning permission AL/136/17/PL.

The proposal concerns a site that lies outside of the built up area boundary but already has the benefit of an existing planning permission which has been commenced. Therefore, although the development plan has changed since the original planning permission was granted (with a new Local Plan, a new NPPF and new WSCC Minerals and Waste Plans), there is no reason to reconsider the principle of two dwellings on this site or to prevent this application from being approved on grounds of principle.

Furthermore, the changes shown on the proposed site layout are not actually within the application red edge and instead relate to the land in the ownership of plot 1. The main effect of these changes is that any large vehicles accessing the site will no longer need to turn within the turning area formerly shown as being within plot 1 as they can now enter and exit the site in a forward gear using the other access point. This application therefore simply seeks to amend the approved conditions so that they better reflect the road layout encompassing plots 1, 2 and 3.

WSCC Highways have assessed the application and following amendment are now happy with the proposed drawing. This drawing matches that approved under AL/136/17/PL but also includes the necessary visibility splays for the northernmost access within the application red edge thus ensuring that these can be provided for the lifetime of the development and enforced by the local planning authority.

It is therefore recommended that planning permission be granted in accordance with the following conditions. It should be noted that these conditions reflect those attached to AL/121/16/PL and have been updated to reflect the current development plan (i.e. policy reasons), to reflect the current proposed site plan and to reflect the result of AL/50/17/DOC which discharged the three pre-commencement conditions.

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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the 1st February 2017 (being the date that planning permission was granted for AL/121/16/PL).

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

"Site Plan" Drawing No. SP01 Rev E;
 "Proposed Layouts & Outline Section" Drawing No. X01;
 "Proposed Elevations" Drawing No. X04 Rev C; and
 "Street Scene" Drawing No. X12.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1 and T SP1 of the Arun Local Plan.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the submitted Flood Risk Assessment. In particular, all finished floor levels should be set no lower than 13.5m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure safe access/egress from/to the site and to reduce the risk of flooding to the proposed development and future occupants all in accordance with policy W DM2 of the Arun Local Plan and the National Planning Policy Framework.

- 4 The development shall be implemented in accordance with the surface water drainage scheme which was approved by the Local Planning Authority on the 13th June 2017 (ref AL/50/17/DOC) and which consisted of drawing 1730/D1.1 Rev A "Drainage Layout"; and drawing 1730/D5.1 "Drainage Construction Details". The approved drainage scheme shall be fully implemented prior to occupation of either of the dwellings and shall be permanently retained in good working order thereafter.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM2 and WDM3 of the Arun Local Plan.

- 5 The development shall be implemented in accordance with the noise mitigation measures detailed in sections 6.3 & 6.4 of the Environmental Noise Assessment by Acoustic Associates (dated 25/04/17) which was approved by the Local Planning Authority on the 13th June 2017 (ref AL/50/17/DOC). The approved noise mitigation measures shall be fully implemented prior to occupation of either of the dwellings and shall be permanently retained thereafter.

Reason: To safeguard the amenities of residents in accordance with Arun Local Plan policies D DM1, WE SP1 and QE DM1.

- 6 No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed building has been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the building.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with policy D DM1 of the Arun Local Plan.

- 7 No development above damp proof course (DPC) level shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with policy D DM1 of the Arun Local Plan.

- 8 No development above damp proof course (DPC) level shall take place until details of screen walls and/or fences have been submitted to and approved by the Local Planning Authority and no dwellings shall be occupied until such screen walls and/or fences associated with them have been erected.

Reason: In the interests of amenity in accordance with policy D DM1 of the Arun Local Plan.

- 9 No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing Ref SP01 Rev E. The access shall be permanently retained thereafter as per the approved details.

Reason: To secure satisfactory standards of access for the proposed development in

accordance with policies D DM1 and T SP1 of the Arun Local Plan and paragraphs 108-110 of the NPPF.

- 10 No part of the development shall be first occupied until visibility splays of 2.4m x 70m to the north and 2.4m x 59m to the south have been provided at the proposed site vehicular access onto the A29 Fontwell Avenue in accordance with the approved planning drawing SP01 Rev E. Once provided, the splays shall thereafter be maintained in perpetuity and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level or as otherwise agreed.

Reason: To secure satisfactory standards of highway safety in accordance with policies D DM1 and T SP1 of the Arun Local Plan and paragraphs 108-110 of the NPPF.

- 11 No part of the development shall be first occupied until vehicle parking and turning spaces have been constructed in accordance with approved drawing SP01 Rev E. The parking spaces and turning areas shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with policies D DM1 and T SP1 of the Arun Local Plan and paragraphs 108-110 of the NPPF.

- 12 Details for the secure storage of bicycles within each new residential plot shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwelling. The secure cycle storage so approved shall be implemented in accordance with the approved details and retained in perpetuity unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that adequate and satisfactory provision is made for the parking of bicycles in accordance with policies T SP1 & T DM1 of the Arun Local Plan and paragraphs 108-110 of the NPPF.

- 13 Details for the storage of domestic rubbish and recycling within each new residential plot shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of either of the two dwellings of development.

Reason: To protect the amenities of nearby residents in accordance with Arun Local Plan policy WM DM1.

- 14 No development or new tree planting should be located within 3 metres of either side of the centreline of the public sewer which crosses the eastern (front) part of the site and all existing sewer infrastructure shall be protected during the course of construction works.

Reason: In the interests of protecting the existing public sewer and in accordance with Arun Local Plan policies D DM1 and W DM3.

- 15 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies D DM1, QE SP1 and QE DM4.

- 16 The two first floor bathroom windows shall at all times be glazed with obscured glass.

Reason: To protect the amenities and privacy of the adjoining properties in accordance with policies D DM1 and QE SP1 of the Arun Local Plan.

- 17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015, (or any Order revoking or enacting that Order) no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the flank walls of the new dwellings without the prior permission of the Local Planning Authority on an application in that behalf.

Reason: To protect the amenities and privacy of the adjoining properties in accordance with policies D DM1 and QE SP1 of the Arun Local Plan.

- 18 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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 19 INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.
- 20 INFORMATIVE: It is requested that consideration be given to raising/improving the existing boundary to Westfield House in order to protect their privacy. Details of such improvements should be submitted with the plot boundary treatments required by the above condition.
- 21 INFORMATIVE: The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ. (Tel no. 01243 642105).
- 22 INFORMATIVE: Should any protected species or evidence of any protected species be found prior to or during the development, all works must stop immediately and an ecological consultant or Chichester District Council's ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of this advice and provided with the contact details of a relevant ecological consultant.