

REPORT UPDATE

Application No: AL/26/14/PL

Reason for the Update / Changes

Reason for Update/Changes:

A telephone conversation was had with the Environment Agency on 29/07/14. Whilst a consultation request was sent on the 4th of July, they did not receive this. However, they have stated that given the proposed change of use from restricted holiday occupancy to residential occupancy and given the location of the site partly in Flood Zone 3 that a Flood Risk Assessment is required and they are unable to assess the application without one.

Officers Comment:

The Council has a duty of care in respect of ensuring that public safety is not compromised by flooding and it is therefore recommended that an additional reason for refusal be added to the recommendation.

Note: The changes to the reasons for refusal show under the Officers Recommendation at the end of the attached report.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

AL/26/14/PL

Recommendation Report for Planning Permission

REF NO: AL/26/14/PL

LOCATION: Easter Cottage, Norton Dairy, Cart Barn
East Barn & The Old Stables
Old Dairy Lane/Norton Lane Aldingbourne

PROPOSAL: Change of use from 5 no. tourist units to 5 No. residential units (C3 Dwelling). This application affects the character and appearance of Aldingbourne (Church Road) Conservation Area

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	0.198 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	25 dph.
TOPOGRAPHY	Predominantly flat.
TREES	There is a mature oak on the side boundary but this is not affected.

report

BOUNDARY TREATMENT

There is a flint wall to the front onto Norton Lane and a part brick/flint wall & low fence to the boundary with the West Barn site. The site comprises a mix of boundary treatments reflecting the fact that the site includes 5 separately owned holiday units. These include flint walling, post & rail/ranch style fencing, close boarded fencing and hedges.

SITE CHARACTERISTICS

The site comprises 5 individual plots each containing a single storey holiday unit. These are as follows:

Norton Dairy - 2 bedroom semi-detached brick, weatherboard & tile holiday cottage;
Easter Cottage - 1 bedroom semi-detached brick, weatherboard & tile holiday cottage;
Stables - 1 bedroom detached rendered holiday conversion. Part of this building is a store for Easter Cottage;
Cart Barn - 1 bedroom detached brick, weatherboard, flint & tile holiday cottage; and
East Barn - 2 bedroom detached timber & weatherboard holiday lodge.

The plots also contain ancillary structures such as garden sheds, cycle stores, car ports. Car parking is comprised of:

Norton Dairy - 2 off-street spaces;
Easter Cottage - 2 off-street spaces;
Stables - 2 off-street spaces and a timber car port;
Cart Barn - 2 off-street spaces; and
East Barn - 1 off-street space.

CHARACTER OF LOCALITY

The site is located on the western edge of the small settlement of Norton. Aside from the B1 use to the west, the holiday units are entirely surrounded by residential properties of various styles and sizes. There is farmland further to the west.

With the exception of the rear gardens to Easter Cottage and Norton Dairy, the site falls entirely within the Norton Conservation Area. To the north of the site lies the curtilage of the Grade II listed Norton Farmhouse.

RELEVANT SITE HISTORY

AL/26/14/PL

AL/92/08/	Re-use of redundant farm buildings for mixed use development - B1 offices, residential dwellings & tourist accommodation units	ApproveConditionally 21-01-2009
AL/114/09/	Proposed tourist units in redundant farm building- amendment to AL/92/08 (in lieu of the B1 use approved) - This application is a Departure from the Development Plan	Refused 03-02-2010
AL/106/10/	Change of use of implement & equipment store approved under AL/92/08/ to tourist accommodation unit	Approved Cond + S106 14-01-2011 <i>Appealed</i> Appeal: Dismissed 05 12 2011
AL/28/12/	Revision to previous approval AL/92/08/ for change of use of existing farm building to office units (B1 Business)	ApproveConditionally 14-06-2012
AL/72/12/	Conversion from storage in relation to tourist accommodation to 1 No tourist accommodation unit together with provision of ancillary car port	ApproveConditionally 17-10-2012
AL/56/13/	Repositioning of north and east site boundaries, additional parking and landscaping, re-location of bin storage area and provision of cycle store detail (resubmission following a grant of planning permission AL/28/12/)	ApproveConditionally 14-11-2013

Application AL/92/08 granted planning permission for the conversion of several existing redundant farm buildings to a mix of B1 offices, residential dwellings and tourist accommodation units. This permission enabled the holiday use of Norton Dairy, Easter Cottage and Cart Barn. It is noted that whilst West Barn was stated to be converted for B1 office use, its use was not restricted solely to office use and so can also be used for research & development or light industry. A subsequent application to convert the B1 office building (West Barn) to provide holiday accommodation was refused by virtue of conflict with Policy DEV1 (Ref AL/114/09).

Permission was then granted in January 2011 to allow the holiday conversion of the implement & equipment store now known as East Barn (Ref AL/106/10). In October 2012, permission was granted to allow the holiday conversion of the stables building with part of it retained for storage (Ref AL/72/12). Planning Application AL/56/13 allowed for amongst other things, additional car parking for the B1 office use. This included parking along the boundary with Easter Cottage & Norton Dairy.

There have also been three enforcement appeals concerning the occupancy conditions. Those relating to Easter Cottage & Norton Dairy were either dismissed or part dismissed and so had no effect on the occupancy condition as applied by AL/92/08. The enforcement appeal concerning The Cart Barn was allowed and an enforcement notice quashed, however this also had no impact on the occupancy condition imposed by AL/92/08.

Therefore, the current situation in respect of holiday occupancy is that the Cart Barn, Easter Cottage, Norton Dairy and East Barn are all subject to the following condition:

"The tourist accommodation hereby approved shall be used for individual lets for up to and no more than 28 consecutive nights"

The Old Stables is subject to a differently worded condition which also requires the maintenance of a register of occupiers:

"Notwithstanding the provisions of Part C, Class C3 Dwelling Houses to the Schedule of the Town and Country Planning (Use Classes) Order 1987, (or any order revoking or re-enacting that Order), the premises shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior permission of the Local Planning Authority. The property shall not be occupied by any persons for a total period exceeding 28 days in any calendar year. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time, and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year."

REPRESENTATIONS

Representations received:

Aldingbourne Parish Council

Aldingbourne Parish Council - Object on the following grounds:

"1. Inappropriate development

- The existing use of the buildings as tourist accommodation is considered acceptable and in line with the Arun Local Plan saved policies for conversion of rural buildings to business (including tourism) and industrial use in accordance with DEV1
- The conversion to residential use would be contrary to Arun Local Plan saved policy DEV2 with reference to the following paragraphs.

Paragraphs 3.01 states that; "Proposals for residential use bring few benefits to the rural economy, can result in a suburban character in an area and be detrimental to the building." It is considered that the quality of the existing tourist let accommodation would not be suitable as permanent residential accommodation given the high quality of design and appearance that would normally be expected within Norton Conservation Area.

Paragraph 3.02 states that: "Conversion for industrial and business uses will usually be preferred to residential uses. (Business uses include tourism and tourist accommodation.) The District Council, in determining planning applications for residential conversion will expect a demonstration that other more appropriate uses have been explored." It is considered that the economic case presented by the applicant for conversion of the existing buildings from tourist accommodation to residential use is insufficient, lacking in objective detail and that alternative business use has not been fully explored.

2. Incremental development within the rural area.

- It is considered that the proposals represent a tactic of incremental development to residential use that would not otherwise be permitted directly from the former use as agricultural buildings.
- It is considered that should the development proposals be approved that this would set an unwelcome precedent for other similar applications for change of use of farm or rural

buildings within the parish that would erode and undermine the potential to fulfil viable economic business use which would seek to preserve and improve employment opportunities within the parish."

In addition, 7 letters of support have been received. Their reasons for this support are summarised below:

- Residential use will cause no detriment and full-time occupation of the units will improve the Conservation Area. Otherwise the properties may be empty and fall into disrepair;
- Arun DC are prepared to build on green field sites but not allow occupation of these;
- Residential occupiers will contribute to the local community and provide guaranteed benefits to the economy; and
- There was never a coherent case for restricting these properties to short term lettings.

It should be noted that letters of support received from East Barn, Norton Dairy and Easter Cottage have not been counted in the above figure as they are joint applicants.

Comments on Representations received:

The Aldingbourne Parish Council Comments are noted and are in agreement with the recommendation to refuse. It is agreed that full time residential occupiers will contribute a greater amount to the local community but it is not considered that they will result in greater economic benefits.

CONSULTATIONS

Conservation Officer
Environmental Health
WSCC Strategic Planning
Economic Regeneration
Environment Agency

Consultations responses received:

ARUN DC ECONOMIC REGENERATION - Raise an objection to the application. Their comments in full:

"Firstly we think it is important to deal with the definition of Tourist property and self-catering accommodation. The definition we use, and the basis on which these comments are made, is as follows; NACE REV.2 classification: Section I, Division 55, Class 55.2 - Holiday and other short-stay accommodation. This class includes the provision of accommodation, typically on a daily or weekly basis, principally for short stays by visitors, in self-contained space consisting of complete furnished rooms or areas for living/dining and sleeping, with cooking facilities or fully equipped kitchens. This may take the form of apartments or flats in small free-standing multi-storey buildings or clusters of buildings, or single storey bungalows, chalets, cottages and cabins. Very minimal complementary services, if any, are provided. This class excludes:· provision of furnished short-stay accommodation with daily cleaning, bed-making, food and beverage services, see 55.10; provision of homes and furnished or unfurnished flats or apartments for more permanent use, typically on a monthly or annual basis, see division 68. Source: Visit England / European Commission.

Please note that NACE is a French abbreviation of "European Classification of Economic Activities".

We only have anecdotal evidence of a strong self-catering market locally since that is all that is available. However, Visit England conduct regular national surveys amongst all types of tourist

property owner, and the trends for self-catering are shown below. These are % figures based on the same period in the previous year

Easter 2012 +35%
June 2012 +17%
July 2012 +21%
Sept 2012 +16%
Nov 2012 +26%

Jan 2013 +25%
April 2013 +22%
July 2013 +26%
Sept 2013 +39%
Nov 2013 +29%

Source: Visit England Business Tourism Monitor

We are satisfied that this shows an increased trend for self-catering accommodation nationally and we see no reason why that should not apply locally.

We are unable to comment on the closure of Norton Cottage but cannot accept this as a comparison since it is a different type of accommodation.

We still hold the view that these properties have not been marketed in the places that tourists would generally look for a short term self-catering holiday let. We have checked the King and Chasmore web site and the only reference to holiday properties we can find are for those on the Isle of Wight. King & Chasmore state they are part of the Countrywide Property Group - we have checked their web site and they don't have any holiday rental properties but do have residential lets.

However, we do accept that Amberley House Cottage Holidays is the type of company that visitors would look for a short term holiday let, but if this was the only marketing channel it would obviously have limited success. The agent's letter states that the Visit Chichester web sites are linked - they aren't and never have been. The letter from Amberley House Cottage Holidays states that 'the cottage would have remained viable as a successful holiday let'. We can only conclude that the applicants' agent thought it had been viable although the application appears to differ on this point."

CONSERVATION AREA ADVISORY COMMITTEE - No comments

WSCC HIGHWAYS - WSCC understand that the tourist accommodation is in use all year round and as such they agree that had the units been fully occupied as intended this request for a change of use would not be an intensification of use. As such WSCC raise no further issue with this. WSCC are also satisfied that the application will have no bearing on the existing access, visibility or ability to turn within the site. They note that turning space was previously assessed on AL/92/08. They request the following condition designed to ensure that there is sufficient car parking:

"Within 6 months of the date of this permission, a plan shall be submitted to and approved by the local planning authority in conjunction with the local highway authority which shows the

parking arrangements for the dwellings and includes 1 new space in addition to the existing 9. The additional parking space shall be provided in accordance with the approved details and then retained along with the other 9 spaces for their intended use."

ARUN DC ENVIRONMENTAL HEALTH - The Council's HMO Officer raises concerns regarding natural lighting and ventilation stating that: "natural ventilation is to be provided by openable windows in each habitable room with the openable part of the window equivalent in size to 1/20th of the available floor area without utilising openable doors"; and that "natural lighting to be provided by windows and glazed doors with a glazed area equivalent to 1/10th of the available floor area. This could be included as an informative.

ARUN DC CONSERVATION OFFICER - The council is duty bound to ensure that all development either preserves or enhances the character or appearance of the particular conservation area. The Norton conservation area is a small rural settlement with a variety of building types (form, style, age and materials). This is reflected in the properties concerned. Based on the information available to me, it appears as if the properties will not change in terms of appearance. Whilst the change of use has the potential to lead to the increased residential presence, it is considered that in this instance, the proposal will not have a detrimental impact upon the conservation area. If the application were to be recommended for approval, it is suggested that the permitted development rights should be removed so that the LPA has the ability to better control the development of the area.

ENVIRONMENT AGENCY - Any comments to be added as an update or reported verbally at the meeting.

Comments on Consultation responses:

It should be noted that the Economic Regeneration comments have taken account of a written submission by the applicant's agent which included further supporting information. Also that the WSCC Highways parking condition has been agreed with the applicant.

With regard to the Conservation Officer comments, it is noted the permitted development rights for extensions were removed on AL/92/08, AL/106/10 and AL/72/12. However, permitted development rights for outbuildings were only removed on AL/72/12 (The Stables).

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
Within a designated Conservation Area;
Class C Road;
No Public Sewer;
PD Restriction;
Drainage Area; and
Flood Zones 2/3.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	DEV2	Conversion of Rural Buildings for Residential Use
	DEV17	Affordable Housing
	GEN3	Protection of the Countryside
	GEN7	The Form of New Development

GEN11

Publication Version of the Local Plan -
Excluding the Spatial Portrait, Employment,
Housing Allocations, Transport, Monitoring and
Implementation sections (February 2014):

Inland Flooding

C SP1 Countryside
D DM1 Aspects of Form and Quality
D DM2 Internal Space Standards
D DM3 External Space Standards
H DM1 Housing Mix
TOU DM1 Tourism Related Development
W DM2 Flood Risk

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX6

Interim Affordable Housing Policy

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

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 not considered to comply with relevant development plan policies in that whilst it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of nearby properties, insufficient evidence of any marketing for holiday/tourist uses has been supplied and it is therefore contrary to Policy DEV2(i).

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

PRINCIPLE

The application site lies outside of the built up area boundary where development is generally unacceptable unless it falls into a certain category or is otherwise in accordance with a Local Plan policy which refers to a specific use or type of development (Policy GEN3). The loss of the tourism condition would not meet any of the five criteria in Policy GEN3 and this would lead to the provision of 5 new dwellings in the countryside. In this case, the relevant policy is DEV2 which relates to the conversion of rural buildings for residential use.

It is noted that paragraph 51 of the National Planning Policy Framework (NPPF) states that local planning authorities should normally approve planning applications for change of use to residential uses from commercial buildings where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. However, this refers to B class commercial uses rather than the approved holiday use.

HISTORY OF THE SITE

The site history is set out in full in the 'Planning History' section above. However, to summarise, the 5 units were formerly redundant farm buildings which were allowed to be converted into holiday accommodation as a result of applications AL/92/08, AL/106/10 & AL/72/12. All five units are subject to a 28 day occupancy condition but the "Stables" is subject to a different worded 28 day occupancy condition and is also required to maintain a register of occupiers. It is noted that agent refers to this situation as leading to more confusion amongst the owners but it is not considered that the situation is particularly confusing.

POLICY DEV2 CONVERSION OF RURAL BUILDINGS FOR RESIDENTIAL USE

Policy DEV2 states that proposals for conversion to a residential use will not be permitted unless 5 criteria are met or acceptable justification for non-compliance is given instead.

DEV2 - First Criteria

The first criteria requires that evidence is submitted to demonstrate that reasonable attempts have been made to market and use the premises for business purposes and a statement of the efforts made is submitted in support of the application; or that residential conversion is a subordinate part of a scheme for business reuse.

Firstly, this proposal is not a subordinate part of a scheme for business reuse. That argument would have applied however to the AL/92/08 application which included an element of residential conversion alongside the B1 office and holiday conversions.

On that basis it is then necessary to consider the marketing information that the applicants have supplied. The evidence submitted with the application comprises of (copies of):

* Email from Henry Adams to Mr Lissamore (Norton Dairy) dated 05/03/14 and stating that during the marketing period of February to July 2013 there was one viewing but that the prospective purchaser was put off by the £190,000 price tag. There were additional enquiries but these were put off by the 28 day occupancy condition. The email concludes that with the current planning status, the agent had little confidence finding a buyer;

* Undated letter from Countrywide to Mrs Kavanagh (Easter Cottage) recommending that the property not be taken to auction due to the planning restriction and the commercial development next door. The letter also states that the 28 day restriction would also prevent assured short hold tenancy lets;

* Letter from King & Chasemore to Mrs Kavanagh (Easter Cottage) dated 27/02/14 stating that they had the property on the market for 18 months but that enquirers were put off by the planning restriction. The agent states that even at a reduced price of £140,000, the planning restriction would prevent a sale;

* Letter from Sims Williams to Mrs Stephens (The Cart Barn) dated 28/02/13 recommending that the property be withdrawn from the market due to lack of interest and stating that the planning restriction is the reason for this;

* Email from Countrywide to Mrs Kavanagh (Easter Cottage) dated 24/10/12 stating that a prospective purchaser was put off from buying the property not because of the 28 day restriction but because Arun DC said that they would be checking owners annually requesting proof of letting to tourists; and

* Letter from Ms K Wood dated 08/11/13 setting out the reasons why she did not proceed with the purchase of Easter Cottage. This was mostly down to the Council's pre-application advice in respect of a proposed change of use to a before & after school club.

In addition, following Arun DC Economic Regeneration's initial comments, the agent wrote on

10/06/14 to provide the following additional items:

- * Letter from Amberley House Cottage Holidays to Mrs Kavanagh (Easter Cottage) dated 09/10/12 stating that after hearing that the barn behind the cottage had been sold and will have a change of use to an industrial estate and business park, that they will no longer be able to offer the property as self-catering accommodation;

- * A follow-up email dated 10/06/14 is also submitted and confirms that the advice given in October 2012 still stands;

- * Email from Norton Cottage B&B to the Chichester Tourist Information Centre dated 01/10/12 and stating that the B&B is to close due to low bookings; and

- * Email from Countrywide to Mrs Kavanagh (Easter Cottage) dated 12/10/12 advising that the 28 day restriction may make the property tricky to sell (and that enquirers had already been put off by this).

A number of conclusions can be reached from the above information. Firstly that aside from the one email from Amberley House Cottage Holidays and which only concerns Easter Cottage, there is no evidence of specific marketing for holiday rental or even sale for holiday purposes. All of the marketing evidence seems to relate to either residential sale or to short term residential lets. Indeed, Countrywide, King & Chasemore, Henry Adams and Sims Williams are all primarily known for marketing residential properties.

It is considered that in order for Policy DEV2 to be satisfied then there needs to be proof that there has been no interest in any of the 5 units from persons looking for short stay holiday accommodation. To prove this would ideally require evidence of medium to long term marketing by marketing agents that specialise in holiday accommodation or holiday cottages (with an emphasis on agents plural). Secondly, there is a lot of correspondence relating to Easter Cottage but only one item refers to Norton Dairy and only one item refers to the Cart Barn. There is no marketing information in respect of The Stables or East Barn.

The Council also dispute the assertion that we have allowed an industrial estate/business park on the land to the rear. Whilst West Barn has an approved B1 Business use and therefore enables use as either light industry or research & development, the building has been laid out as offices and a current user is using it as offices. It should also be noted that the definition of B1 (c) Light Industry is "use for any industrial process which can be carried out within a residential area without causing detriment to amenity".

West Barn cannot be described as a business park as this implies more than one building and there is only one. It is accepted that application AL/56/13 allowed for overflow car parking to be provided adjacent to the boundary with Easter Cottage & Norton Dairy, however the impact of this was previously considered to be acceptable given that the two buildings were not in residential use and so were not afforded the same rights in respect of amenity.

Furthermore, regard is had to the 2012 appeal decision concerning Norton Dairy. The Inspector stated with regard to the B1 use at the rear, that: "24. Mr Lissamore claims that the presence of the commercial building to the rear of Norton Dairy would discourage tourists from staying at the property. But in my view the comfortable interior of the property and the general attractiveness of

the surroundings would outweigh any such negative effect. Indeed, I would have thought it more likely that permanent residents, rather than short-term visitors, would object to having a commercial building next-door". It is therefore not considered that the presence of the B1 offices should be considered as a material consideration in the determination of this change of use.

Given the lack of holiday specific marketing evidence and the lack of any evidence with regard to the Stables & to the East Barn, it is considered that the proposal fails to comply with the first criteria of DEV2. It is also noted that applicants did not provide any evidence in respect of whether the units could be marketed/used for alternative business purposes because whilst various Estate Agents did not consider such uses to be viable they would not put this into writing for free. The applicants decided that this was an excessive financial commitment for no gain to their situation (taken from the agents supporting statement).

DEV2 - Second Criteria

The second criteria of policy DEV2 states that the building should be structurally sound, of permanent construction and capable of conversion without rebuilding or significant alteration or extension.

All of the five buildings are considered to be in a good state of repair and are structurally sound. They are already capable of being lived in (and indeed have been lived in - albeit on a restricted holiday basis). No extensions or alterations are proposed. Therefore, the second criteria is complied with.

DEV2 - Third Criteria

The third criteria requires that the resultant building and use will not have an adverse effect on the rural character of the area and is sympathetic to its setting in terms of form, bulk and visual design. It states that particular regard will be given to the impact of any residential curtilage on the character of the countryside.

As noted above, no changes are proposed to the buildings or to the curtilage of the existing buildings. On this basis, it is considered that this criteria is complied with.

DEV2 - Fourth Criteria (Impact on the Conservation Area)

The fourth criteria states that where the building is of historic or architectural importance, there is no adverse effect on the character and appearance or features of architectural or historic interest, internally and externally, which the building possesses, or its setting.

The whole of the site aside the rear gardens to Norton Dairy & Easter Cottage lies within the Norton Conservation Area. Therefore the proposal must be assessed as to whether the change of use will preserve or enhance the character or appearance of the Conservation Area. As noted above, no changes are made to the actual buildings or to the existing curtilages/gardens. The only change is in respect of the use and whilst this will result in a more intensive use of the site, it is not considered that this will have any impact on the preservation of the conservation area. Indeed it may actually enhance the conservation area by strengthening the local community and the sense of ownership of the site. It is therefore considered that the fourth criteria is complied with.

DEV2 - Fifth Criteria

The fifth criteria requires that resultant traffic should be safely accommodated by the site access and the central road system.

County Highways are clear in their view that subject to a condition to ensure the retention of parking facilities, that there are no highway issues with the proposal. On this basis, it is considered that the proposal complies with the fifth criteria.

DEV2 - Other Aspects

Policy DEV2 also requires that provision is to be made for bats & owls. Notwithstanding that the buildings have already been converted to enable holiday occupancy (and that therefore, there is limited scope to incorporate new wildlife features), a condition could be applied to require such measures.

EMERGING POLICY TOU DM1 TOURISM RELATED DEVELOPMENT

Policy TOU DM1 states that: "A change use involving the loss of a visitor offer use will only be granted where it is demonstrated that the use is no longer required and is unlikely to be reused or redeveloped for visitor purposes. This will include a clear demonstration of marketing, viability appraisal and the suitability of the site to accommodate the alternative use". This therefore follows the requirements of DEV2 in respect of the need to provide evidence of marketing for the tourism use. The proposed change of use would therefore also attract an objection from this policy.

INTERNAL & EXTERNAL SPACE STANDARDS (Policies D DM2 & D DM3)

Following a thorough analysis of the proposal versus the internal and external space standards policies, it is considered that:

* 60% of the 5 units comply with D DM2. Norton Dairy is short of the 2 bed/4 person standard of 70m² standard by 10m² but The Stables is only short of the 1 bed/2 person standard (50m²) by 1m². Given that at least 60% of the units are compliant (and 80% if the 1m² shortfall in respect of the Stables is considered acceptable), the proposed change of use is considered to meet the policy.

* 80% of the 5 units comply with D DM3. The exception is East Barn which has a rear garden which is only 3.5m deep and is short of the required 50m² space by 16m². However, there is no scope to increase the amount of external space and on the basis that 80% of the units comply, it is not considered that an objection should be made.

FLOOD RISK

Comments are awaited from the Environment Agency and will be reported to the meeting. However, it is considered that both the existing and proposed use fall within the More Vulnerable category and therefore although a flood risk assessment should have been provided, it is considered likely that no objection will be raised on this issue.

AFFORDABLE HOUSING

The proposal generates a requirement for contributions towards affordable housing and a signed obligation to provide £8,280 in this regard has been submitted as part of the proposal.

APPEAL HISTORY

Three of the units have been subject to enforcement appeals which concerned the use of the units for short stay holiday purposes. Whilst the appeal regarding The Cart Barn was allowed (and the enforcement notice quashed), this had no effect on the 28 day condition that had previously been applied. Two further enforcement appeals relating to Easter Cottage & Norton Dairy were dismissed/part dismissed and had no effect on the conditions. There was also a planning appeal concerning the occupancy condition attached to East Barn but this was also dismissed.

The most recent appeal decision was that concerning Easter Cottage which was part allowed/part dismissed In May 2013. The Inspectors decision stated in respect of the ground (a) appeal that:

"14. The cottage has been marketed for sale, without success. The agents explain that it is difficult to sell when the holiday use is not profitable. However, I have strong misgivings about relying solely on the marketing evidence of what is a fledgling business, and about the profitability forecast. Accordingly, I am not surprised that there was no genuine interest from potential purchasers. There has been no attempt to market the building for other business purposes, such as offices. Accordingly, I consider that the criterion of LP Policy DEV2 to demonstrate that reasonable attempts have been made to market and use the premises for business purposes has not been satisfied, and that the removal of the condition would conflict with policies aimed at restricting residential development in the countryside."

SUMMARY

Notwithstanding that there may yet be adverse comments from the Environment Agency, the main issue with this proposed change of use is the insufficiency of the information supplied in respect of Policy DEV2 criteria (i). For this reason, it is considered that the proposed change of use fails to comply with Policy DEV2 and in the absence of any material considerations to outweigh this issue, the application must be refused for the reason outlined below.

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.

SECTION 106 DETAILS

The application includes a signed and completed Section 106 legal agreement which provides for an affordable housing payment of £8,280.

RECOMMENDATION

REFUSE

- 1 The change of use of the 5 existing tourism/holiday units to 5 unrestricted C3 residential units, would in the absence of sufficient evidence to show that the properties have been marketed for tourism (rental) accommodation, be contrary to the National Planning Policy Framework (paragraphs 28 & 51) and Arun District Council Local Plan policies DEV2(i) and GEN3 and would adversely impact on the rural economy and the tourism offer of the district.
- 2 Insufficient information has been provided in order to allow the local planning authority to assess whether the proposed change of use from restricted holiday occupancy to residential occupancy will not lead to an unacceptable level of flood risk to current and future occupiers and the application is therefore contrary to part 10 of the National Planning Policy Framework, Policy GEN11 of the Arun District Council Local Plan and Policy W DM2 of the Arun Local Plan February 2014 (Publication Version).
- 3 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.