

Recommendation Report for Planning Permission

REF NO: AL/37/19/PL

LOCATION: Norton Dairy
Old Dairy Lane
Norton
PO20 3AF

PROPOSAL: Removal of condition 10 following the approval of AL/92/08/ relating to the tourist accommodation lets.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION As above. No external or internal changes are proposed.

SITE AREA 315 square metres

RESIDENTIAL DEVELOPMENT 25dph

DENSITY (NET)

TOPOGRAPHY Predominantly flat.

TREES

BOUNDARY TREATMENT 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.
Norton Dairy does not have any boundary treatment to the front and side, only the rear amenity space is surrounded by the low timber fence.

SITE CHARACTERISTICS Norton Dairy is a single storey 2bedroom semi-detached brick, weatherboard & tile holiday cottage.
The property benefits from 2 off-street parking spaces and a rear garden.

CHARACTER OF LOCALITY The site is located on the western edge of the small settlement of Norton. Norton Dairy is one of five individual plots each containing a single storey unit.
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 garden to Norton Dairy, the site falls entirely within the Norton Conservation Area. To the north lies the curtilage of the Grade II listed Norton Farmhouse.

RELEVANT SITE HISTORY

ENF/189/13/	Alleged unauthorised development	No Further Actn
ENF/250/11/	Alleged non compliance with Condition 7 of planning application reference AL/92/08/	No Further Actn
CON/253/11/	Alleged non compliance with Condition 10 of planning application ref. AL/92/08	No Further Actn
		Appeal: E.N. Upheld Var 22-08-12
ENF/243/11/	Alleged breach of Condition 3 of planning application ref. AL/92/08/	No Further Actn
ENF/235/11/	Alleged breach of Condition 3 of planning application AL/92/08/	No Further Actn
AL/26/14/PL	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	Refused 30-07-14
		Appeal: Dismissed 04-08-15
AL/92/08/	Re-use of redundant farm buildings for mixed use development - B1 offices, residential dwellings & tourist accommodation units	ApproveConditionally 21-01-09

Re-use of redundant farm buildings for mixed use development - B1 offices, residential dwellings & tourist accommodation units has been approved conditionally under reference AL/92/08, including the condition No10 which is a subject of the current application:

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

Reason: To preserve the availability of the accommodation as a holiday let in accordance with policy DEV34 of the Arun District Local Plan and to prevent the establishment of permanent dwellings in the open countryside in accordance with policies DEV1 of the West Sussex Structure Plan and GEN3 and GEN7 of the Arun District Local Plan.

Application AL/26/14/PL for a change of use from 5 no. tourist units to 5 No. residential units (C3 Dwelling) for Easter Cottage, Norton Dairy, Cart Barn East Barn & The Old Stables was refused and challenged by an appeal which was dismissed (APP/C3810/W/15/3005360).

There have 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 above condition has been removed from Eastern Cottage under AL/130/17/PL and Old Stables (AL/8/17/PL), however The Old Stables has been a subject to a holiday occupancy restriction which allows the owner to let the property for 365 days each year but with each different occupant/occupying group not being allowed to stay for more than 28 days each time. This allowed the owner to market the property for several holiday lets throughout the calendar year. In addition, both applications have been supported with a sufficient evidence regarding marketing of those properties.

The current situation in respect of the holiday occupancy of the 3 existing properties is that the Cart Barn, Norton Dairy and East Barn are all subject to the above condition.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

No response from the Aldingbourne Parish Council.

Conservation Area Advisory Committee has no objection.

Occupier of Eastern Cottage has sent a letter of support:

'Fully support this application, there is no demand in this isolated location for holiday rentals. All rental enquiries are for long term lets on normal ast terms and prices. There is clearly a demand for residential accommodation in the area. I hope the application is approved.'

COMMENTS ON REPRESENTATIONS RECEIVED:

The letter of support is noted but on the proviso that the writer expresses an opinion and does not provide evidence.

CONSULTATIONS

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

Economic Development object to this application.

On previous advice given, the site(s) have been advertised, but it would appear only on Air B&B (since May 2018) resulting in only one enquiry, and that during a Goodwood event. We are not aware of any significant marketing e.g. via agencies, website, social media etc. and a Google search returns only general 'Right Move' type links. No 'holiday marketing' that we can find. The Google search results for Norton Dairy Sussex holiday Cottages (includes a good result of a website for a similar named property - but near Eastbourne!)

We also did a search using Air B&B specifically and could find no mention of these cottages, but found a similar property very close by in a similar location, which seems to be doing fairly well.

<https://www.airbnb.co.uk>

/rooms/31370286?source_impression_id=p3_1560942156_HAKwN1WVz1z2dAsO

In our view, unless the properties are actively marketed, and our suggestion would be with the industry specialist agents such as (locally) Amberley House Cottages or Henry Adams Holiday Lets for example (lots more agencies out there) the properties are unlikely to attract much interest or bookings. Any marketing would also need to be given more than a year to be effective, so it is unsurprising that there

has been very little interest.

COMMENTS ON CONSULTATION RESPONSES:

Noted

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 Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
HDM3	H DM3Agricultural forestry and horticultural Rural dwellings
HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment
SDSP2	SD SP2 Built-up Area Boundary
TOUDM1	TOU DM1 Tourism related development
WDM2	W DM2 Flood Risk
HDM4	H DM4 Conversion of rural buildings for residential use

Aldingbourne Neighbourhood Plan 2016 POLICY EE6 Sustainable recreation and tourism activities

Aldingbourne Neighbourhood Plan 2016 POLICY EE7 Rural buildings

Aldingbourne Neighbourhood Plan 2016 POLICY EH1 Resist development outside

Aldingbourne Neighbourhood Plan 2016 POLICY H8 Dwellings must have adequate private or shared amenity.

Aldingbourne Neighbourhood Plan 2016 POLICY EH9 Outdoor space
Conservation Area

Aldingbourne Neighbourhood Plan 2016 POLICY GA1 Promoting Sustainable movement

Aldingbourne Neighbourhood Plan 2016 POLICY GA3 Parking and new development

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

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

The relevant policies of the Aldingbourne Neighbourhood Plan have been taken into account in determining this application: EE6, EE7, EH1, EH9, GA1 and GA3.

Neighbourhood Plan Review 2019 - 2036 comprises of all of the saved policies from the Aldingbourne Neighbourhood Plan 2014- 2034 and one new policy H1 2019 along with an amendment to Map E to show the revised BUAB.

Site Assessment Report 2019 shows the results of an assessment of all sites on the Arun DC a Housing and Economic Land Availability Assessment HELAA as it relates to Aldingbourne.

Whilst the HELAA provides an important evidence source for potential housing sites, it does not in itself determine whether a particular site should be allocated for housing development.

Arun District Council has given Aldingbourne a figure of 70 dwellings to be delivered through the Neighbourhood Plan process.

For the purposes of this report, the sites have been assessed to be suitable, available and achievable to be deliverable, however the Parish does not wish to see further encroachment to the west.

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 Policies TOU DM1, H DM4 and C SP1.

OTHER MATERIAL CONSIDERATIONS

The National Planning Policy Framework is an important material consideration.

CONCLUSIONS

PRINCIPLE:

The site lies outside of the built up area boundary for which Local Plan Policy C SP1 states that 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 (such as Policy H DM4). The loss of the tourism condition would not meet any of the five criteria in Policy C SP1 and it would lead to the provision of a new dwelling in the countryside.

It is not considered the proposal fully complies with the definition of sustainable development within paragraph 7 of the NPPF. This is because the loss of the tourist accommodation has the potential to harm the local economy (the loss of tourist revenue balanced against the gain in Council Tax & spending on the local economy by residential occupier) and that the site's location is not sustainable having regard to reliance on the private car. The environmental sustainability of the site has been clarified on three previous appeal decisions relating both to the site and the land to the rear/north. In terms of the social dimension, it is considered that the proposal would result in a slight social benefit from the building being occupied all year round and thus contributing to the local community.

Paragraph 8 of the NPPF states that the economic, social & environmental roles should not be undertaken in isolation, because they are mutually dependent and that therefore, to achieve sustainable development, economic, social & environmental gains should be sought jointly and simultaneously through the planning system.

It is also important to consider the following references from the National Planning Policy Framework (NPPF). Firstly, paragraph 28 states that:

"To promote a strong rural economy, local and neighbourhood plans should: (3) support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside."

Paragraph 55 is also relevant as it can allow for homes in unsustainable locations within the countryside. However, none of the circumstances given in para. 55 apply to this case.

ALDINGBOURNE NEIGHBOURHOOD DEVELOPMENT PLAN:

Aldingbourne Neighbourhood Development Plan policy EH1 "Built Up Area Boundary" is relevant. It states that proposals for development outside of the built-up area boundary, that do not accord with development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure, where the benefits outweigh any harm, and it can be demonstrated that no reasonable alternative sites are available.

Arun District Council has given Aldingbourne a figure of 70 dwellings to be delivered through the Neighbourhood Plan process and Neighbourhood Plan Review 2019 - 2036; in its Report has assessed the classified sites and the Parish there has expressed no wish to see further encroachment to the west.

Notwithstanding that this application concerns an existing 'development', as discussed below, it is considered that the proposal does not accord with development plan policies (namely H DM4) in that the conversion of rural buildings to residential is acceptable subject to there being no demand for an

alternative use.

POLICY H DM4 CONVERSION OF RURAL BUILDINGS FOR RESIDENTIAL USE:

The proposal would conflict with criteria of Arun Local Plan Policy H DM4(a) & TOU DM1 (a). These policies state that the loss of tourist accommodation or rural business premises will only be allowed where evidence of sufficient marketing has been provided.

Policy H DM4 does not seek to restrict the location of housing but rather allows the conversion of buildings into dwellings within the countryside. It is therefore considered that full weight should be attached to Policy H DM4 in the determination of this application

Policy H DM4 part (a) requires that either 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 re-use.

The application for a removal condition 10 following the approval of AL/92/08/PL would not comply with Policy H DM4 (a) due to an insufficient interest in the property for holiday use. Council Economic Development/Tourism Officers object this application since no 'holiday marketing' has been found (e.g. via agencies, website, social media etc. and a Google search returns only general 'Right Move' type links.)

POLICY TOU DM1 TOURISM RELATED DEVELOPMENT:

Local Plan Policy TOU DM1 states that tourism is an important cultural and economic driver for the economy and general well being of Arun; visitor related development can play an important role in rural diversification therefore existing facilities and accommodation (except camping and caravan sites) will not be granted planning permission for a change of use that leads to the loss of visitor offer unless it is demonstrated that the use is not longer required and the site is unlikely to be reused or redeveloped for visitor purposes. To demonstrate these requirements, the Council will require:

- e. that alternative visitor uses have been fully explored;
- f. an appraisal indicating that the use is no longer viable
- g. evidence that the site has not been made deliberately unviable; and
- h. evidence of the suitability of the site to accommodate the alternative use

Considering the above the conversion of building for the residential use within countryside will not be permitted subject to a number of exceptions, none of them would be met in this instance; the proposed dwelling would be a new isolated home in the countryside (alongside with the other four). The applicant has failed to satisfy the requirements of Policies TOU DM1 and H DM4 (a) as well by providing insufficient evidence to demonstrate that alternative visitors uses have been fully explore and reasonable attempts have been made to market and use the premises for business (tourism) purposes. As such, the application is recommended for a refusal.

SUMMARY:

The starting point for this determination is the development plan. Arun Local Plan policy H DM4 allows for the conversion of rural buildings to a residential use subject to compliance with a set of criteria. This report concludes that these criteria have not been met. It is acknowledged that Local Plan policy ECC SP1 seeks to reduce car travel. However, it is considered that Policy H DM4 would attract more weight in this determination particularly as the proposal concerns an existing building in a holiday use. The

Aldingbourne Neighbourhood Plan states that proposals for development outside the built up area boundary will be acceptable where they accord with other policies within the development plan (such as policy H DM4).

It is then necessary to consider whether material considerations indicate that this determination should not be made in accordance with the development plan. In this case, material considerations include policies H DM4 (a) & TOU DM1 (a) within the Local Plan and the National Planning Policy Framework.

It is therefore recommended that the application be determined in accordance with the Local Plan and that permission be refused.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

REFUSE

- 1 Removal of condition 10 following the approval of AL/92/08/ relating to the tourist accommodation let in the absence of meeting a number of specific exceptions specified within policy C SP1 would result in another new isolated home in the countryside, contrary to the National Planning Policy Framework (paragraph 55) and Arun Local Plan policy C SP1 and would adversely impact on the local distinctiveness which contributes toward more sustainable lifestyle.
- 2 Insufficient information has been provided to demonstrate that reasonable attempts have been made to market and use the premises for business purposes. Therefore the proposal is contrary to NPPF paragraph 28 and Arun Local Plan policies H DM4 and TOU DM1.
- 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 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.