

Recommendation Report for Planning Permission

REF NO: AL/73/13/

LOCATION: Existing Barn
Sack Lane Dairy
Sack Lane Lidsey

PROPOSAL: Conversion of barn into 1No. dwelling. Resubmission following AL/42/13.
Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Conversion of the existing barn into 1 no. 4 bedroom dwelling spread over 2 floors. The proposal includes a new fenced curtilage to provide private garden space, 3 parking spaces (including turning space), a cycle store and a bin store.
SITE AREA	0.5 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	2 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open to the farm buildings on the southern/eastern side. To the North West there is an existing cowshed covering the site area which is enclosed by block work walls. There is a 1m high metal railing along the western boundary.
SITE CHARACTERISTICS	Existing two storey barn part brick, part flint, part timber pitched roof barn which opens on the east side to existing farm buildings and a large enclosed space. To the western side there is an existing block work & corrugated iron cow shed which will be demolished to create curtilage space. The rear wall of this shed is made from brick and this will be retained as boundary treatment. A further small square shaped lean to building to the west of the cow shed will also be removed.
CHARACTER OF LOCALITY	Farmland with former farm buildings and cottages to the east. The site is accessed from the west by Sack Lane which itself splits into two tracks either side of a drainage ditch.

RELEVANT SITE HISTORY

AL/42/13/

Conversion of barn into 2 no. dwellings.
Departure from the Development Plan.Withdrawn
02-09-2013

Resubmission of AL/42/13 which sought consent for conversion to 2 dwellings and was withdrawn following concerns by the Council's Historic Buildings Adviser. These concerns have now been rectified by reducing the proposal from two dwellings to one and making elevation changes. In making this decision regard has also been had to the following other planning decisions:

(1) The recent appeal decision concerning Evergreen Cottage, also on Sack Lane (our reference: AL/5/13) which allowed for a holiday cottage (previously converted from a barn) to be used for residential purposes (albeit for agricultural/forestry workers). The appeal decision discussed the matter of whether Policy DEV2 is superseded by the NPPF and concluded that the aims of Policy DEV2 were broadly in accordance with the NPPF; and

(2) A 2013 decision ref LY/1/13 which allowed for the residential conversion of a barn in the Lyminster ward. In that case, whilst no evidence was submitted to satisfy criteria (i) of DEV2, this was considered acceptable on the grounds that nearby barn to dwelling conversions had previously been allowed contrary to DEV2 given the unacceptable levels of traffic movements that would have been generated. On this basis, that planning decision was not considered to lend any weight to this determination.

REPRESENTATIONS

Representations received:

Aldingbourne Parish Council - no response received to either this or the previous application.

One letter received from the owner of Woodpecker Nursery on Sack Lane: "There appear to be various buildings on site that are not included in the current application, that have in the past, been used for housing livestock and I have a concern that they could be used again for this purpose. This would give rise to noise and smell pollution together with unacceptable amounts of flies in a close proximity to the proposed conversion. There is still a large liquid slurry tank close to the proposal which cannot be ideal so close to a new residential unit. The current ditch that is proposed to take the treated sewerage water (i.e. between Sack Lane and the private road) would appear to be very heavily contaminated from previous farming activities or sewerage from a different source which I feel should be investigated."

Comments on Representations received:

No information has been provided in respect of the other existing farm buildings or the slurry tank.

CONSULTATIONS

Listed Building Officer
WSCC Strategic Planning
Building Control
Environmental Health

Consultations responses received:

Historic Buildings Adviser - No Objection subject to amendments. Consider that the scheme has significantly improved on the last application but there remain a number of concerns which should be amended before support can be considered and which represent an accumulative level of harm to the agricultural character of the building and its setting. These have to do with: the staircase, windows, subdivision and the setting. Following receipt of amended plans, the following comment was received: "On the grounds that the barn is a non-designated heritage

asset this scheme is capable of support now. The only amendment we would recommend is changing the single door in the main opening to glass. A solid door here is not appropriate. Please condition all glazing and door details."

Arun D.C. Environmental Health - Request the imposition of condition ENV5.

Arun D.C. Building Control - "Given the nature of the development, early Building Control responses/considerations in respect of this Planning proposal include: (1) a full Structural Appraisal (ref: BRE Digest 366 and/or ISE Report 'Appraisal of Existing Structures') of the building will be required to ensure it's suitability for Change of Use ; and (2) consideration should be made to the Means of Escape provisions in case of fire. Follow-up advice received stated that: "Although the Engineers 'Report' doesn't provide a full Structural appraisal in accordance with the two publications I've listed, broadly we would accept what's detailed to demonstrate that the building can be converted. There are a couple of points we have concern over but happy control these when the Building Regulations submission is lodged."

WSCC Highways - Given their previous non objection in respect of a proposal to convert into two dwellings, no anticipated highway safety concerns are raised to this new application. Request conditions regarding "Vehicle parking & turning" and "Cycle parking".

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to site: Outside Built Up Boundary & No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN3	Protection of the Countryside
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN29	Nature and Conservation Across the District
	DEV2	Conversion of Rural Buildings for Residential Use

Publication Version of the Local Plan - Excluding the Spatial Portrait, Employment, Housing Allocations, Transport, Monitoring and Implementation sections (February 2014):	H DM3Agricultural,Forestry & Horticultural Workers' Dwelling
	SD SP1 Sustainable Development
	C SP1 Countryside

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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SUPPLEMENTARY POLICY GUIDANCE

XXX6	Interim Affordable Housing Policy
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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 214 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 published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has now been published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded limited weight in terms of the decision making process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is 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, no evidence of any marketing for commercial uses has been supplied and in addition, the size of the proposed curtilage is considered to be excessive such that it would alter the character of the area and it is therefore contrary to Policy DEV2.

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

The proposal is to convert an existing rural building to a single residential dwelling comprising of two floors. In addition, the proposal includes new curtilage comprising a large gravelled courtyard including 3 parking spaces and also a large rear 'garden' area. The total site area is 0.5 hectares and the area of the building itself is 130m². Therefore the extent of curtilage space is around the 4870m² mark.

PRINCIPLE

The application falls to be considered against Policy DEV2 of the Arun District Local Plan which relates to the conversion of rural buildings for residential use. All the criteria outlined by DEV2 need to be complied with unless acceptable justification for non-compliance is given.

It is also necessary to have regard to the National Planning Policy Framework (hereafter abbreviated to NPPF). Paragraph 55 states that: "Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: (3) where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting;". The agent has suggested that the NPPF takes precedence over Policy DEV2, however, whilst both are material considerations, regard has been had to a recent appeal decision concerning ref AL/5/13 which stated that Policy DEV2 is broadly in accordance with the NPPF and which did not suggest it inappropriate to require evidence of marketing for commercial uses. On this basis, whilst the NPPF clearly supports the reuse of redundant rural buildings for residential purposes, it is still considered necessary to comply with Policy DEV2.

Turning now to Policy DEV2, there are 5 criteria to comply with. The first 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. The proposal is not a subordinate part of a business scheme and no evidence has been submitted in respect of marketing for alternative commercial uses. Instead, the argument is made that Policy DEV2 is outweighed by the advice in the NPPF. However, as set out above, this is not considered to be the case. Therefore, the application is contrary to criteria (i) of DEV2.

The second criteria of policy DEV2 is that the building should be structurally sound, of permanent construction and capable of conversion without rebuilding or significant alteration or extension. The building is considered to be in a good state of repair and whilst there is evidence of different materials being introduced on some elevations, the building seems to be solid. A structural survey has been submitted to confirm that the building is structurally sound and capable of conversion without significant re-building. This survey whilst not being in accordance with BRE Digest 366 and/or ISE Report 'Appraisal of Existing Structures', has been assessed by Arun D.C. Building Control and they broadly accept that it demonstrates that the building can be converted without major work. The roof is to be re-clad using natural slates (existing recycled where possible) but that is not to say that the existing roof is not structurally sound.

With regard to criteria (iii) the site is part of a farm complex located alongside a road and there are existing dwellings to the east. It is considered given the residential use proposed and size of the property it would be unlikely to generate a significant increase in traffic levels or activity and the rural character would not be materially altered. However, there is concern over the size of residential curtilage proposed. Policy DEV2 also states that "The proposal must minimise the amount of land to be used as residential curtilage". The existing agricultural building opens out onto existing hardstanding to the east but this space is shared between the barn and other existing farm buildings. The land to the west is currently walled & roofed and is not physically associated with the barn (i.e. no access between the two). Whilst these walls will result in this half of the curtilage (and therefore the parking spaces & bin store) being well screened, it is considered that the two halves together are excessive and therefore the proposal does not comply with criteria (iii) in this respect.

Criteria (iv) requires that where the building is of architectural or historical importance, that 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. This building has been subject to consultation by the Council's Historic Buildings Adviser on the grounds that it is a non-designated heritage asset. As a result of this involvement, several alterations have been made to

the design of the building and it is now considered to be acceptable subject to imposition of a condition requiring details of door and window glazing. The proposal is therefore considered to comply with criteria (iv).

Criteria (v) states that the traffic to be generated by the new use can be safely accommodated by the site access and the local road system. Following advice from County Highways it is not considered that the proposal conflicts with these requirements.

In addition to the 5 criteria, Policy DEV2 also requires that there be provision for bats and owls incorporated into the scheme. The application submission included a bat survey which concluded "that there was no evidence to suggest that the proposed conversion would destroy or disturb a bat roost or affect the local ecological functionality related to bats". A condition would be imposed to require provision to be made for bats and owls. WSCC ecology commented on the previous application AL/42/13 and stated that: "There is no ecological objection to the proposed development subject to an informative." There is therefore no objection to the proposal on the grounds of ecology (and with reference to Policy GEN29).

It should be noted that the emerging Local Plan was recently endorsed by the full Council (on 11/02/14). It will soon be published for consultation and its policies therefore carry weight in the determination process. Emerging Policy H-DM3 (formerly DM16) "Agricultural, Forestry and Horticultural Workers' Dwellings" is relevant to this application. The fourth part of this Policy has regard to the conversion of rural buildings for residential use. The content of the policy is the same as that of the content in DEV2. This is considered to strengthen the Council's case in respect of the proposal failing to comply with Policy DEV2.

LOCATION AND SUSTAINABILITY

In addition to the concerns raised above, it is necessary to also consider the location of the site. The Inspector in assessing the appeal application regarding Evergreen Cottage found that the site would be reliant on the use of the private car to access facilities and services - and that therefore, the proposal did not represent sustainable development. Given that the Evergreen Cottage site is located further west along Sack Lane and therefore closer to the junction with the A29, it must follow that the Sack Lane Dairy site is also unsustainable.

AFFORDABLE HOUSING

The proposal generates a requirement for contributions towards affordable housing and a signed obligation to provide ?2,208 in this regard has been submitted as part of the proposal.

CONCLUSION

The application is therefore recommended for refusal for the following reasons.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

REFUSE

- 1 The proposed conversion to a residential dwelling would, in the absence of evidence to show that the property has been marketed for alternative business uses, be contrary to policies DEV2(i) & GEN3 of the Arun District Local Plan and policy H-DM3 of the emerging Local Plan.
- 2 The proposed conversion to a residential dwelling would, by virtue of the large areas of new residential curtilage, be detrimental to the rural character of this site and the surrounding rural area in which it is located and the proposal is therefore contrary to policies DEV2(iii) & GEN3 of the Arun District Local Plan and policy H-DM3 of the emerging Local Plan.
- 3 The proposed development would not be sustainable development by reason of its isolated location at the far end of a country lane located off the A29 and will not enhance or maintain the vitality of the rural community in which it is located. It would therefore be contrary to policies GEN2 of the Arun District Local Plan, policies SD-SP1 & C-SP1 of the emerging Local Plan and the National Planning Policy Framework particularly paragraphs 7 and 55.
- 4 **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 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(s) for the refusal, approval has not been possible.