

Recommendation Report for Planning Permission

REF NO: AL/73/14/PL

LOCATION: Land adjoining Sunnyside
Westergate Street
Westergate

PROPOSAL: Erection of 2 No three bedroom semi-detached dwellings (Plots 1a & 1b) together with new boundary treatment & landscaping & extension of access road to serve site (Part alternative to AL/114/12). This application affects a public right of way.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The proposal seeks to amend Planning Permission Ref AL/114/12 by creating 2 semi-detached dwellings instead of 1 detached dwelling. The dwellings will each have 3 bedrooms. The access arrangements and plot size remain the same but the semi-detached building will have a slightly different shape, be slightly wider (by 2m) and slightly taller (by 0.3m). In addition, instead of a garage with driveway, parking spaces will now be situated on the opposite side of the road. The rear garden will be fenced with a 2m high wall and fence and the front with a 1m high picket type fence.

SITE AREA

Approximately 0.09 ha.

RESIDENTIAL DEVELOPMENT DENSITY (NET) 22 dwellings per hectare.

TOPOGRAPHY

Gradual incline to rear of site.

TREES

There are several trees on the site, some of which are covered by a Tree Preservation Order.

BOUNDARY TREATMENT

Part brick wall to north boundary. Trees and vegetation to east boundary. Part 2 metre high fencing to south boundary adjoining no. 3 Old School Close. Brick outbuilding and 1.8 metre high fencing on part west boundary adjoining Sunnyside.

SITE CHARACTERISTICS

Area of land located on the east side of Shripney Road (A29). The site contains a small copse of trees, some of which are protected by a Tree Preservation Order. There is a public right of way running east-

west through the application site.

CHARACTER OF LOCALITY

Semi-rural. Open countryside to the rear (east) and new residential development comprising a three storey block of flats and parking forecourt to the north (AL/23/06/). Extant planning permission exists for 4 additional detached dwellings to the north (AL/95/09/, AL/89/10, AL/45/14). Residential development comprising detached dwellings to the south. Sunnyside is a detached, two storey Victorian dwelling to the west.

RELEVANT SITE HISTORY

AL/114/12/	Erection of 4 No. four bedroom detached dwellings with associated car ports & extension of existing access road to serve site	Approved Cond + S106 11-04-2013
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Planning Permission Ref AL/114/12 allowed for 4 x 3 bed dwellings and the creation of a new access road. Plot 1 was to be sited adjacent to four detached dwellings permitted under applications AL/95/09/ and AL/89/10/. The proposed development required the diversion of an existing public right of way.

REPRESENTATIONS

Representations received:

Aldingbourne Parish Council - no comments received.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Southern Water Planning
Engineering Services Manager
Engineers (Fluvial Flooding)
WSCC Strategic Planning
Arboriculturist

Consultations responses received:

Southern Water - Request an informative re connections to the public sewerage system.

WSCC Highways - No objections. Request imposition of several conditions.

WSCC Ecology - Comments made in response to AL/45/14 stated that: " There are no ecological objections to the proposed development as presented subject to conditions being imposed upon the permission should the LPA be minded to approve. Notably, the site has been cleared already; there is no indication of whether or not the resident and protected reptile population was translocated first. Conditions recommended."

ADC Drainage Engineers - "Soakaways to be designed for 1 in 100 year storm event plus 30%

and designed in accordance with the groundwater and percolation results already obtained. Please amend ENGD2A to suit."

ADC Arboriculturist - "The applicant has supplied relevant information of the proposed mitigation, in the form of BS5837 fencing for trees 1 to 6,8,12, group 1 and group 2. All this provided data would conform to the BS5837 standard. As for trees 7 and 9, there is a conflict between the proposed construction operation and the protection that is required. T7 and T9 would see an encroachment of their relative RPAs for parking areas. Section 8.5.1 of the application has indicated the use of no-dig surfaces which will be installed in areas of the Root Protection Areas. The application has also stated that once completed no more than 20% of the RPA should be covered by a non-porous surface. As for T10 the report has indicated this individual should be removed as T10 is a stump that has some suckering that is keeping it alive. (this 'stump' has low aesthetic value and is not much of a feature on the landscape). The removal of T11 has already been approved as part of a previous application AL/114/12. I would therefore have no objection to the mitigation/protection that is being offered by the submitted application for T1- T10, T12, Group 1 and group 2 as it meets the criteria as stipulated in the BS 5837. As the removal of T11 has been granted previously under AL/114/12, I would have no objection to the felling of this outlined tree."

Comments on Consultation responses:

Comments noted and conditions applied.

POLICY CONTEXT

Designations applicable to site:

Within Built-Up Area Boundary;
Tree Preservation Order;
Class A Road;
No Public Sewer;
PD Restriction; and
Right of Way.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: [GEN2](#)
[GEN7](#)
[GEN9](#)
[GEN12](#)
[GEN28](#)
[GEN29](#)

Built-up Area Boundary
The Form of New Development
Foul and Surface Water Drainage
Parking in New Development
Trees and Woodlands
Nature and Conservation Across the District

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design Quality
D DM2 Internal Space Standards
D DM3 External Space Standards
D SP1 Design
ECC SP2 Energy and Climate Change Mitigation
ENV DM4 Protection of Trees
ENV DM5 Development and Biodiversity
SD SP2 Built-Up Area Boundary
T SP1 Transport and Development

W DM3 Sustainable Urban Drainage
Systems

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

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 on 30th October 2014 for six weeks.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. 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).

Made Plans in Arun District Council's Local Planning Authority Area are: Arundel; Barnham & Eastergate; Bersted; Felpham; Littlehampton; and Yapton.

Aldingbourne have just completed the first draft of their Neighbourhood Plan (Neighbourhood Plan Working Draft November 2014).

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 the adjoining properties, it would result in a poor standard of living accommodation and external amenity space to the detriment of future occupants.

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

Notwithstanding that the site lies within the built up area boundary where the principle of development is considered to be acceptable, the principle of development on this site has already been established under approved planning references AL/23/06, AL/50/08, AL/69/10, AL/89/10 and more recently AL/114/12. The current application represents an amendment to plot 1 to create a fifth (second) dwelling together with relatively minor changes to the built form.

DESIGN & CHARACTER

The proposal will create two dwellings instead of one and will therefore introduce a semi-detached form of dwelling into what is otherwise a development of detached houses. However, there are other semi-detached and even terraced dwellings in the immediate area such as to the North on Oaks Close, to the south on Old School Place and west of the A29. Furthermore, the semi detached dwellings have been designed to resemble when viewed from the front a single detached dwelling. The doors to each house are located on the side. In addition, car parking is provided in a single area opposite the site. It is therefore not considered that this change will be to the detriment of the character of this new development.

The proposed house has a slight forward projection beyond that of the plot to the north but this is no different to the detached dwelling on the approved scheme. The new building is slightly higher than the existing but only by 0.3m. However, this additional height will not be as noticeable due the building being on a corner plot (i.e. no neighbouring building to the south).

RESIDENTIAL AMENITY

It is not considered that the changes will result in any impacts on neighbours surrounding the site and although first floor flank windows are proposed these are either bathroom windows (which can be obscure glazed) or are secondary bedroom windows which face south.

IMPACT ON TREES & WILDLIFE

The proposed semi-detached dwelling follows largely the same footprint as the previously

approved building. It does project significantly closer to the trees to the east. Although the proposal will involve the siting of parking spaces on land across the road to the west, the Councils Arboriculturist has not raised any objections to the proposed development. A condition will be applied to ensure that the development is carried out in accordance with the submitted arboricultural method statement.

With regard to species protection, the County Councils ecologist previously made comments with regard to an application concerning the plots to the north (which was submitted by the same applicant) in which no objections were raised subject to two conditions. The ecologist was not consulted on this application but it is considered that the same conditions could be relevant if permission is granted.

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

Certain policies within the emerging local plan have been approved for development management purposes. These include policies which seek to ensure that future residential occupants are provided with a satisfactory amount of indoor living and outdoor garden space. Following a thorough analysis of the proposal versus the internal and external space standards policies, it is considered that:

* The proposed dwelling does not comply with Policy D DM2 in that the standard for a 3bed/5person two storey dwelling is 96m² and each dwelling is around 10m² short (at approximately 87m²).

* The proposed dwelling does not comply with Policy D DM3 in that the standard for a 3 bedroom detached dwelling is 85m² and the rear gardens whilst being in excess of the required 10m depth (at 10.9m & 11.6m) are only 54m² (1A) and 56m² (1B). These figures take account of the 4m² cycle store proposed in each garden (i.e. plot 1A's total of 58m² had 4m² subtracted to give the usable space total).

The applicant has proposed a 1m high picket fence around the front and part of the side of the plot in order to create defensible space. However, the front garden will not be private and the spaces to the side are so narrow as to not be useable. Furthermore, the front area is shared and with the doors to the dwelling at the side, the space will not be capable of being directly accessed from either dwelling.

It is also noted that the rear gardens are east facing and as such will only receive sun during the morning when it is lower in the sky. Furthermore, these gardens are bordered on the eastern boundary by protected trees which will block out sunlight and create shadow over much of the gardens. Although this does not prevent the space being used and although the plots to the north have the same situation, this does nevertheless impact on the quality of the private amenity space.

SUMMARY

Although the proposed development is acceptable in terms of character/design, trees, wildlife and residential amenity, the act of intensifying the use of this plot results in a form of development that will be detrimental to the amenity of future occupants.

It is considered that it might be possible to remove the objection on the grounds of Policy D DM2 by reducing the number of bedrooms from 3 to 2 (as the internal requirement would then be 83m²) but a 2 bed dwelling would still require 85m² worth of private amenity space.

It is recommended that this application be refused 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 external rear gardens are considered to be unsatisfactory in terms of size (area) and would give rise to an unsatisfactory living environment and unacceptably small habitable private amenity spaces for future occupiers in conflict with the good design principles in the National Planning Policy Framework, Policy GEN7 of the Arun District Local Plan and the external space standards set out in Policy D DM3 of the Publication Version of the Arun Local Plan (2011 - 2031) Publication Version (October 2014).
- 2 The proposed internal living accommodation is considered to be unsatisfactory in size and would give rise to an unsatisfactory living environment for future occupiers in conflict with the good design principles in the National Planning Policy Framework, Policy GEN7 of the Arun District Local Plan and the internal space standards set out in Policy D DM2 of the Publication Version of the Emerging Arun District Local Plan (February 2014).

- 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 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.

- 4 INFORMATIVE: Your attention is drawn to the conditions applied to AL/114/12 which have not yet been discharged. In particular, condition 15 stated that "Prior to development or any preparatory works commencing, the reptile population shall be translocated only in accordance with the submitted reptile mitigation strategy and retained as such thereafter, unless otherwise first agreed in writing by the Local Planning Authority." It would appear that the application site has been cleared and there is no evidence as to whether the resident and protected reptile population was translocated first.