

Recommendation Report for Planning Permission

REF NO: AL/74/19/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 (resubmission following AL/37/19/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. No external or internal changes are proposed.
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.
SITE CHARACTERISTICS	Norton Dairy does not have any boundary treatment to the front, approximately 1.5m high brick wall to the side and the rear amenity space is surrounded by the timber fence. Norton Dairy is a semi-detached single storey pitched roof 2 bedroom holiday cottage. Timber clad with a slate roof. The property benefits from 2 off-street parking spaces to the side 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 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

AL/37/19/PL	Removal of condition 10 following the approval of AL/92/08/ relating to the tourist accommodation lets.	Refused 22-07-19
AL/8/17/PL	Continuance of use without compliance with condition 6	ApproveConditionally

imposed under AL/72/12/ relating to holiday occupancy. 02-05-17
 This application affects the character & appearance of the Norton Lane Conservation Area & is a Departure from the Development Plan.

AL/93/15/PL	Continuance of use without compliance with condition 6 imposed under planning reference AL/72/12/ relating to the premises being used for the purpose of holiday accommodation only & for no other purpose. This application affects the character & appearance of the Norton Lane Conservation Area. This application is a Departure from the Development plan	Refused 27-01-16
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/72/12/	Conversion from storage in relation to tourist accommodation to 1 No tourist accommodation unit together with provision of ancillary car port	ApproveConditionally 17-10-12
AL/106/10/	Change of use of implement & equipment store approved under AL/92/08/ to tourist accommodation unit	App Cond with S106 14-01-11 Appeal: Dismissed 05-12-11
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 03-02-10
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.

AL/26/14/PL for a change of use from 5 tourist units to 5 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 was removed from Eastern Cottage (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:

Aldingbourne Parish Council

Ongoing objection to this application for the same reasons; it continues to fail to comply with Aldingbourne's Neighbourhood Plan.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted; it is noted that the Parish did not object to AL/37/19/PL concerning the removal of the holiday restriction for the proposal property.

CONSULTATIONS

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

Arun District Conservation Area Advisory Panel - There will be no adverse impact on the character of the Conservation Area.

Economic Development - Can't support loss of the accommodation but since the other properties nearby have had the restriction removed and applicant has shown additional marketing no longer object.

COMMENTS ON CONSULTATION RESPONSES:

Comments 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;
 Lidsey Drainage Area;

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
HDM4	H DM4 Conversion of rural buildings for residential use
WDM2	W DM2 Flood Risk
HERSP1	HER SP1 The Historic Environment
HERDM3	HER DM3 Conservation Areas
TOUDM1	TOU DM1 Tourism related development
TOUSP1	TOU SP1 Sustainable tourism and the visitor economy
TSP1	T SP1 Transport and Development

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 EH9 Conservation Area

Aldingbourne Neighbourhood Plan 2016 POLICY GA1 Promoting Sustainable movement

Aldingbourne Neighbourhood Plan 2016 POLICY GA3 Parking and new development

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

Outdoor space

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD12	Open Space, Playing Pitches & Indoor & Built Sports Facilities

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 relevant policies of the Aldingbourne Neighbourhood Plan have been taken into account in determining this application: EE6, EE7, EH1, EH9, H8, 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.

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 does not comply with relevant development plan policy SD SP1 which promotes sustainable development and particularly the reduction in the use of the private car to travel. The proposal accords with policy H DM4 of the Arun Local Plan in that evidence has been provided to demonstrate that the approved holiday use is not viable. It is not considered that the proposal would have a materially adverse effect on the visual amenities of the locality, the residential amenities of the adjoining properties or an adverse impact on the established character of the surrounding area.

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 applicant submitted this application soon after recently refused application AL/37/19/PL since they felt that the full extent of marketing was not presented clearly enough. They followed advice from neighbours and guidance in the previous appeal decision and has marketed Norton Dairy to assess demand for its use as a holiday letting unit.

The proposal benefits from support of Policy H DM4, criteria a, b and c and Policy TOU DM1, criterion e of the Arun Local Plan. Marketing has been undertaken which shows that there is little interest in the property, and what interest there is does not translate into bookings; and as such, the retention of the condition would be unjustified and not reasonable.

Evidence shows marketing for Norton Dairy has been carried out as a continuous process since March 2018 without success. The cottage was marketed for holiday lets, short term lets, or nightly B&B lets. Airbnb was first registered on 10th April 2018 and HomeAway on 8th May 2018. Copies of emails from Airbnb and HomeAway show enquiry activity - none of which resulted in any bookings. Marketing was in line with that of approved applications: The Old Stables, reference AL/8/17 and Eastern Cottage, AL/130/17/PL.

PRINCIPLE:

The site is 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.

Section 72 of Town and Country Planning Act 1990 as amended states in part 1;

'Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section:

(a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission'.

Condition 10 has been imposed (Application Ref: AL/92/08) 'to preserve the availability of the accommodation as a holiday-let in accordance with policy DEV3 of the Arun District Local Plan and to prevent the establishment of permanent dwellings in the open countryside in accordance with policies.'

Policy H DM4 is the policy which allows for the principle of the conversion of buildings located in the defined countryside into residential use. Subject to meeting the criteria in Policy H DM4 (as discussed below), the proposal would be acceptable in principle in respect of the ALP.

Aldingbourne Neighbourhood Development Plan (ANP) Policy EH1 states 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 for essential utility infrastructure, where the benefits outweigh any harm, and where it can be demonstrated that no reasonable alternative sites are available.

As set out below the proposal complies with development plan policies in respect of the countryside in that ALP Policy H DM4 allows for the principle of rural conversions. Subject to meeting the criteria in Policy H DM4, the proposal would be acceptable in principle in respect of the ANP.

Regard should be had to the NPPF which is a material consideration in the determination of this application. This sets out a presumption in favour of sustainable development.

Although the Council cannot currently demonstrate an NPPF compliant 5 year housing land supply the policy H DM1 is not considered be out-of-date. Policy H DM1 does not seek to restrict the location of housing but rather allows the conversion of rural buildings into dwellings. It is considered policy H DM1 is broadly supported by the NPPF.

Paragraph 79 of the NPPF encourages the development would re-use redundant or disused buildings and enhance its immediate setting. It is therefore considered that great weight should be attached to Policy H DM4 in the determination of this application.

HERITAGE ASSETS:

Norton Dairy is situated within designated Conservation Area. Relevant Local Plan policies are HER SP1 (The Historic Environment) and HER DM3 (Conservation Areas). HER SP1 states that designated heritage assets including Conservation Areas will be given the highest level of protection and should be conserved and enhanced in a manner appropriate to their significance. HER DM3 stresses that development which adversely affects the setting, character, appearance of or views in to and out of a Conservation Area will be refused.

It is necessary to consider policy guidance in the National Planning Policy Framework (NPPF) which sets out several steps when considering impact on heritage assets. Para 189 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 190 requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that may be affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is any harm and if so, whether this is 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance harm with the level of public benefits associated with the proposal (as set out in paras 193-196).

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in the exercise of planning functions, with respect to any buildings or other land in a conservation area, of any any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposed development is for removal of condition 10 following the approval of AL/92/08/PL and no external or internal changes are proposed therefore it is considered that the proposed is considered to not cause harm to the significance of the heritage assets or their setting.

CONVERSION OF RURAL BUILDINGS FOR RESIDENTIAL USE:

Policy H MD4 of the ALP states that proposals for the conversion of buildings for residential use outside the built-up area will not be permitted unless:-

a. Either, it has been demonstrated that reasonable attempts have been made to market and use the premises for business purposes, and the application must be supported by a statement of the efforts which have been made; or, residential conversion is a subordinate part of a scheme for business re-use;

Policy TOU DM1 of the ALP seeks to prevent loss of tourist accommodation and sanctions this only where it is demonstrated the use is no longer required and the site is unlikely to be reused or redeveloped for visitor purposes.

The applicant has supplied evidence that shows that despite marketing the property on Airbnb since April 2018 and Homeaway since May 2018 and marketing for holiday lets, short term lets or nightly B&B lets there was no bookings. This evidence has been accepted by the Council's Economic Development/Tourism Officers who have declined to raise an objection to the application.

It is accepted that this change of use results in a loss of potential tourist revenue. This should be balanced against (a) the fact that the property has not attracted any tourists and so is not currently contributing to the local economy, (b) the fact that a residential occupier will also generate spending on the local economy and (c) a residential use will generate Council Tax receipts.

It is considered that the applicant has satisfied the requirements of Policy H DM4 a. by providing evidence to demonstrate that reasonable attempts have been made to market and use the premises for

business (tourism) purposes.

The following is an assessment of the other criteria within Policy H MD4:

The third criterion 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. No changes are proposed to the building or to its curtilage and on this basis, it is considered that this criterion is complied with.

The fourth criterion 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. No changes are proposed to the building or to its curtilage. 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. Therefore the fourth criterion is complied with.

The fifth criterion requires that resultant traffic should be safely accommodated by the site access and the central road system. County Highways did not object in respect of application AL/26/14/PL which concerned the residential use of 5 holiday properties. It is not considered here would be any harm to highway safety arising from the change of use of 1 property.

It is considered the proposal satisfies the requirements of policies H DM4 and TOU DM1 of the Arun Local Plan.

SUSTAINABILITY OF LOCATION:

Policy SD SP1 of the ALP states that development must promote sustainable development, including reducing the need to travel, particularly by private car.

The site is in a significant distance from the nearest settlement boundary. Norton does not have a defined built up area boundary, the nearest defined settlement boundary in the district is Westergate where the closest shops & services are. The nearest shop in Westergate is the Esso petrol station and this would be a walk of around 2km from the site. There are bus stops on Nyton Road around 600m from the site. There are no footpaths on Norton Lane heading southwest or on Nyton Lane heading south east from the junction with Norton Lane. It would not be attractive or particularly safe for people to walk to access the bus stops or the nearest shop.

It is considered the site is not located in a sustainable location and there would be no scope for new residents to use means other than the private car to access local shops and services. The Inspector who considered the application for live/work units at West Barn located to the rear of the site (AL/59/16/PL) commented: "For the reasons given above I conclude that the location of the development would provide unacceptable access to everyday local facilities by a range of modes of transport and that the resulting dependency on private motor vehicle usage would be harmful to the environment".

It is reasonable to conclude that there would not be a material difference between the number of car trips undertaken by tourists (assuming the property was occupied by all year round) versus the number made by a residential occupier. However, the site is not in a sustainable location and the change of use does not comply with the ALP Policy SD SP1.

INTERNAL & EXTERNAL SPACE STANDARDS:

Norton Dairy is considered to be a single storey, 2 bedroom, two person property and the required standard is therefore, 50m². The floorplan has not been submitted however the property is a counterpart of Eastern Cottage (AL/130/17/PL) with the footprint of 60.5m² therefore it is considered that it complies with required standard. The property benefits from 2 parking spaces in the curtilage.

Policy D DM1 refers to the need for compliance with the Arun Design Guide. This stresses the design of new homes should provide clear delineation of public and private spaces; incorporating a 'public front' and private 'back' to the rear of the site, providing private gardens. The dwelling provides amenity space for occupiers providing rear gardens of approximately 90 sqm whilst the requirement of the Arun Design Guide for 2 bed home is 50 sqm only.

The proposal complies with policies D DM1 & D DM2 of the Arun Local Plan, the Arun Design Guide and with the guidance in the NPPF (para. 127).

SUMMARY:

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 at least one criterion has been met. It is acknowledged that Local Plan policy ECC SP1 seeks to reduce car travel. However the proposal complies with H DM4. 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).

Regard should be had to the fact that the Council has removed the holiday restriction on the property next door (the Old Stables) and Eastern Cottage and it is not considered that there has been any material change in planning policy or circumstance since those decisions.

CONCLUSION:

It is considered that the proposed development would satisfy the requirements of paragraphs 79 of the NPPF and policy H DM4 of the Arun Local Plan and therefore recommended for approval subject to the following and informatives.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby approved shall be carried out in accordance with the following submitted Norton Dairy Land Registry based Location Plan.

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

- 2 **INFORMATIVE:** The effect of this planning permission is to remove condition 10 of AL/92/08/ in respect of Norton Dairy only. Please note that condition 03 of that permission is still relevant.