

Recommendation Report for Planning Permission

REF NO: AL/95/25/PL

LOCATION: Belle Vue
Level Mare Lane
Eastergate
PO20 3SA

PROPOSAL: Erection of 1 No. detached self-build dwelling and garage with parking. This application is in CIL zone 3 and is CIL liable as a new dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks to construct 1 No. detached self-build dwelling to the rear of Belle Vue.
SITE CHARACTERISTICS	The site is an area of land which forms part of the rear garden of Belle Vue which is a detached property with a deep rear garden.
CHARACTER OF LOCALITY	The site is to the south of a ribbon of residential development. This area has a semi-rural character.

RELEVANT SITE HISTORY

AL/118/24/PL	3 No dwellings with associated parking. This application is in CIL Zone 3 and is CIL Liable as dwellings. This application is a Departure from the Development Plan.	Withdrawn 05-02-25
--------------	--	-----------------------

Planning history noted.

REPRESENTATIONS

Aldingbourne Parish Council - No objection.

Four objections were received from nearby occupiers raising concerns that:

- There are discrepancies within the proposed plans in terms of the position of the chimney.
- It is not clear which space the circular window on the west elevation serves.
- Loss of privacy and tranquillity in neighbouring gardens due to overlooking and perception of overlooking.
- The introduction of a large house and garage within an existing garden would be at odds with the established pattern of development.
- The proposal would compromise the sense of openness enjoyed by neighbouring properties.
- Intensification of residential activity would lead to an increase in noise levels and light pollution.
- The site is on the edge of the settlement boundary and urbanisation of this area should be resisted.
- The CIL documents appear incomplete.

- There are lots of new residential developments in the area; this dwelling would not contribute to any shortfall in housing.
- Building works would cause disturbance and highways issues.
- Potential drainage issues.
- Issues with access and turning into the site.
- Full details of the services to the dwelling should be provided.
- Tree plans submitted do not match the satellite pictures provided.
- A condition was attached to the previously approved summerhouse requiring this not to be used as a separate unit of accommodation.
- Overdevelopment of garden land.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed within the conclusions. Details of servicing are not generally provided or assessed as part of the planning process for development of this nature, and, for this reason, it would not be reasonable to require them. Conditions such as those described in the representations are often attached in the interests of controlling future development, and do not necessarily imply that future development would be unacceptable.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WEST SUSSEX COUNTY COUNCIL HIGHWAYS - No objection.

SOUTH DOWNS NATIONAL PARK - No comments.

ENVIRONMENTAL HEALTH - No objection subject to conditions.

- Condition requested regarding hours of working.

ECOLOGY OFFICER - No objection subject to conditions.

- Condition recommended to secure the ecological enhancements identified within the Preliminary Ecological Appraisal and requiring further details of any external lighting to be used on site.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Area of Special Control (Adverts)

Outside Built Up Area Boundary

1200m buffer for the Singleton and Cocking Tunnel SAC

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
SDSP1	SD SP1 Sustainable Development
LANDM1	LAN DM1 Protection of landscape character

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[Aldingbourne Neighbourhood Plan 2019-31 Policy EH1](#) Built up area boundary

Aldingbourne Neighbourhood Plan 2019-31 Policy GA1 Promoting sustainable movement

Aldingbourne Neighbourhood Plan 2019-31 Policy GA3 Parking and new developments

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

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 considered to comply with relevant Development Plan policies in that the application provides a residential unit which is in proximity of other residential dwellings and would not harmfully impact the character of the area or the amenity of neighbouring occupiers.

The proposal fails demonstrate exemption from the requirement to provide a Biodiversity Net Gain, and does not accord with the requirements of the Environment Act 2021.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The site is outside of the built up area boundary and this therefore considered to be within the countryside. Arun Local Plan (ALP) policies C SP1 and EH1 of the Aldingbourne Neighbourhood Plan (ANDP) are of relevance. ALP Policy C SP1 seeks to prevent development outside of the built up area boundary, except in specific circumstances, which do not relate to this application. Development outside the BUAB would normally be refused in accordance with ALP policy C SP1. However, the Council currently cannot demonstrate a 5- year Housing Land Supply (HLS). ALP policies SD SP2 and C SP1 are considered out of date as a result.

The site falls within the Habitats Regulations Assessment (HRA) Buffer for the Singleton and Cocking Tunnels SAC. Due to the nature and scale of the development, an appropriate assessment is not required and the proposal would not result in harm to the SAC. The "tilted balance" in terms of a presumption in favour of sustainable development is therefore engaged in accordance with NPPF para 11(d). In considering this application, the Local Planning Authority must consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

NPPF para 14 states that 'in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement'

The ANDP is in date as per para 14, with the development falling outside of its housing allocations. ANDP policy EH1 resists development outside of the built up area, and in situations where there is a significant housing shortfall, requires development outside of the BUAB to accord with a set of 7 criteria, including how appropriate the development is in terms of scale and character, impact on biodiversity, the environment, the South Downs National Park and how sustainably located the proposal is.

The proposal is considered to comply with these criteria, in that the proposed dwelling would contribute to the housing shortfall and as a proposal for a single dwelling, is deliverable in the short term, in compliance with EH1(i). The dwelling would not harm the setting of the South Downs National Park (SDNP) or the character of the neighbouring settlement in compliance with EH1(ii and iii). The application has been supported by a Preliminary Ecological Appraisal which confirms that there would be no unacceptable impacts on protected species, and the Council's Ecologist has confirmed that the scale of the development does not require an appropriate assessment, in compliance with EH1(iv). The

development does not lie within 50m of a biodiversity corridor, in compliance with EH1(vii). Whilst the proposal is in a semi-rural area, there are some services and access to public transport, and the location is not unsustainable, in compliance with EH1(v). Amenity, traffic and groundwater flooding have been considered in the submission and the impact on these aspects is considered acceptable in compliance with EH1(vi).

Whilst the development is outside the Built Up Area, in a semi-rural location, the principle of the development is considered acceptable in accordance with ANDP policy EH1. The development must also comply with the relevant development plan policies.

DESIGN AND VISUAL AMENITY

The dwelling would be located to the rear of Belle Vue, and would not be prominent on the street scene. Development along Level Mare Lane is generally linear, with properties lining the the road and facing towards it. The dwelling would not have a street frontage, and would therefore, by its nature as backland development be at odds with the established pattern of development in this location. The property has a substantial rear garden which enables the additional dwelling to be accommodated without compromising the residential amenity of the host dwelling. There are no recommended distances for back to front distances within the Arun Design Guide (ADG), however, the host dwelling will retain a rear garden depth of 38m, which far exceeds the recommended 10.5m and the proposed dwelling would be positioned at a distance of 22m from the rear boundary of the garden.

The dwelling is a one and a half storey building of a similar design to the existing property. The height of the building would be 9m, which is lower than the host dwelling and complies with Part P of the ADG which states that houses built in rear gardens should generally be subservient to the host dwelling. The design of the property reflects that of the host dwelling and would not be out of keeping with the character of the area, in accordance with ALP policy D DM1 and ADNP policy EH1.

The proposed materials are brick and timber, with a slate roof. These materials reflect those of other dwellings in the area, and are acceptable in accordance with ALP policy D DM1.

No detailed floor plans or elevations of the proposed garage have been submitted with the proposals. Whilst the principle and position of the garage shown on the block plan are both acceptable, detailed plans showing the design and height of the proposed structure would be required if the application were to be approved. These may be secured via condition.

Although the proposed dwelling does not reflect the linear pattern of development in the area, the placement of a dwelling in the rear garden of Belle Vue would not be visually apparent from the street scene, and would not harm the visual amenity or character of the area. Subject to further details of the proposed garage design, the development accords with Part P of the ADG and ALP policy D DM1. The development would also not harm the wider landscape or the setting of the SDNP in accordance with ADNP policy EH1 and ALP policy LAN DM1.

AMENITY OF FUTURE OCCUPIERS

The internal area of the proposed dwelling exceeds the Nationally Described Space Standards and is in accordance with ALP policy D DM2. Windows are proposed in all habitable rooms, and the property will provide a good standard of amenity for future occupiers in terms of access to natural light. The property would have a large curtilage, with sufficient outdoor amenity space in accordance with the ADG.

NEIGHBOURING RESIDENTIAL AMENITY

ALP policy D DM1 states that developments should have a minimal impact on users and occupiers of nearby property and land. Part P of the ADG states that backland development should be designed so as not to overlook existing windows and gardens.

The dwelling would be to the south of the host dwelling and the adjacent property. The proposal maintain a separation distance of approx. 60m between the rear of the host dwelling and the front of the host property, and a distance of approx. 58m to the rear boundary of the adjacent dwelling at Culver. The dwelling would not result in a harmful loss of privacy affecting these dwellings, or any adverse overbearing or overshadowing impacts.

The dwelling would be situated adjacent to the rear garden of the property to the east. The dwelling is approx 5.5m from the boundary with this property, and runs alongside only a small proportion of its garden. The dwelling would not result in significant overbearing or overshadowing impacts. The dwelling has no windows above ground floor level on the eastern elevation, and there would be no direct overlooking of the neighbouring garden. Some oblique views of the garden would be gained from the upstairs bedroom windows, however, given the separation distance between the properties and the oblique nature of the views, these are not considered to be unduly harmful. To the west, the site borders the access road to The Piggerys, and would not result in harmful impacts on residential neighbours.

Whilst there is likely to some sense perception of a loss of privacy as a result of the introduction of residential use into this area to the rear of the existing properties, the proposal does not result in unacceptable harm to the amenity of neighbouring occupiers, and is acceptable in accordance with ALP policy D DM1 and the Arun Design Guide.

TRANSPORT, HIGHWAYS AND PARKING

ALP policy T SP1 states that development will be supported where it reduces the need travel by car and identifies opportunities to improve access to public transport. ANDP policy GA1 also states that developments will be supported where they are accessible to public and community transport. The site is in a semi-rural location, with limited services in close proximity of the site. However there are some services within a reasonable walking distance of the site, including a convenience store, and a bus stop along Fontwell Avenue which is a 10 minute walk from the site and provides links to the wider public transport network. Although the site is a semi-rural location, it is in reasonable proximity of services and the public transport network and is accessible.

The proposal provides vehicular access to the property via the existing vehicular access to Belle Vue and provides appropriate space for vehicle turning. West Sussex County Council Highways raised no objection. Concerns have been raised regarding additional noise and light emitted by cars at the rear of neighbouring properties. However, as the proposal is for a single dwelling, vehicular movements would not be so frequent or so disturbing as to cause harm to the amenity of neighbouring occupiers.

ALP policy T SP1 and ADNP policy GA3 require developments to provide appropriate levels of parking. The development would provide three parking spaces in accordance with the Arun Parking Standards SPD. Conditions were recommended by WSCC Highways regarding the provision of parking and cycle parking, and these would have been attached to any recommendation for approval to ensure that the development complies with the Arun Parking Standards and ALP policy T SP1.

FLOOD RISK

The site is within Flood Risk Zone 1 and is not at future risk of flooding from rivers and sea accounting for climate change. There is no known surface water flood risk on the site according the EA mapping, however the site is identified as being at significant risk of groundwater flooding. A Flood Risk Assessment (FRA) has been submitted which addresses ground water flood risk. The FRA proposes measures to address the groundwater constraints within the development's surface water drainage design. Neighbouring occupiers expressed concern about potential development in their representations. Given the scale of development proposed, it is considered that matters relating to drainage would be satisfactorily addressed via the building regulations process.

The proposal is acceptable in terms of flood risk in accordance with W DM2.

ECOLOGY AND BIODIVERSITY

A Preliminary Ecological Assessment (PEA) was submitted with the application which did not identify any impacts on protected species and suggests ecological enhancements. A further Biodiversity Enhancement Statement has also been submitted which proposes further improvement measures, which would have been secured via condition and would fulfil the requirements of ALP policy ENV DM5.

The application is described as a self-build dwelling, and claims exemption from statutory Biodiversity Net Gain (BNG) on this basis. The application is not accompanied by a legal agreement to secure the dwelling as self-build, and therefore lacks an appropriate mechanism to demonstrate that the proposals are exempt from BNG on this basis. If the application were not exempt from BNG, it fails to secure the necessary biodiversity net gain in accordance with the requirements of the Environment Act 2021, as it is not accompanied by a completed BNG metric or other relevant BNG documentation.

In appeal decision ref. APP/C3810/W/25/3363266 for four homes, the Inspector noted that a condition would not be sufficient to secure the dwelling as self-build, and that a S106 legal agreement would be necessary. In an appeal, ref. APP/N4720/W/25/3372474, made against Leeds City Council, the Inspector stated that in the absence a legally binding mechanism to secure the development as a self-build dwelling means it does not meet the definition of a self-build property and the requirements of the BNG exemption.

The application therefore fails to provide statutory BNG, or satisfactorily demonstrate that it should be exempt from this requirement, in conflict with the Environment Act 2021.

SUMMARY

The proposed development is an application for housing, and the "tilted balance" is engaged in accordance with NPPF paragraph 11d. The ANDP is in date as per paragraph 14, however no conflict between the ANDP and the principle of the development has been identified, as the development accords with ANDP policy EH1. Weight is attached to the benefits of the proposal, which include the provision of a housing unit, although this is limited as a single unit and economic benefits associated with the construction of this single dwelling, which are also limited.

In the absence of a signed legal agreement to secure the dwelling as self-build, the development does not demonstrate compliance with the established self-build exemption to the need to provide a 10% increase in biodiversity. If the development were not to be built out as a self-build dwelling, the development would fail to provide BNG, in conflict with the requirements of the Environment Act 2021. The limited benefits of the development would not outweigh this planning harm. Taking into account recent appeal decisions, there appears to be no mechanism to resolve this conflict through the use of planning conditions, and this is considered to significantly and demonstrably outweigh the benefits of the proposal.

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

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

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.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 In the absence of an appropriate mechanism to ensure compliance with the self-build exemption regarding the requirement to deliver a 10% biodiversity net gain via development, the proposal has failed to secure the delivery of a self-build dwelling and, in the alternative the development were not to come forward as a 'self-build' development, failed to secure the necessary biodiversity net gain in accordance with the requirements of the Environment Act 2021.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). 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. It has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.