

REPORT UPDATE

Application No: A/142/17/PL

Reason for the Update / Changes

Reason for Update/Changes:
A new version of the National Planning Policy Framework (NPPF) was published after the preparation of this officer report. Where reference to the NPPF is made in the report any consequential changes have been identified.

Officers Comment:
The officers report does not make any reference to the predated NPPF.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.

Recommendation Report for Planning Permission

REF NO: A/142/17/PL

LOCATION: Land at Barn Farm
Dappers Lane
Angmering
BN16 4EN

PROPOSAL: Change of use of land from storage (B8 Storage or Distribution) to a car sales yard (Sui Generis).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the change of use of land on the site to a car sales yard (sui generis) from B8 storage and distribution. The application originally sought to provide fencing, hedging and trees on the western frontage and southern border to be replaced with 1 metre high post and rail fencing and provide an outdoor showroom for the sale of up to 32 vehicles on site. However, the application has been amended to retain the existing bank, hedging and remaining tree. The onsite buildings which the applicant would seek to retain are a portacabin office, a storage container, a concrete pad for car valeting and a shed.
SITE AREA	The use is currently operating from the site. Approx. 0.2 hectares
TOPOGRAPHY	The site is elevated above the road and then falls slightly in an

eastwards direction. In the wider landscape the higher ground is to the north and the land slopes generally southwards down towards the village.

TREES

There remains one tree of note on the western boundary. This tree is being considered for a TPO.

BOUNDARY TREATMENT

The northern and eastern boundary of the site consist of 2m high close boarded fencing with the southern and western boundaries featuring bunds to a height of approximately 1.5m with planting above. The sites entrance is fronted by brick pillars to approximately 2m in height with black wooden gates.

SITE CHARACTERISTICS

The site is currently in use for car sales. A site visit in July 2018 noted 14 cars. The site is enclosed and features a gravelled surface with a portacabin, one storage container already present on the site and a shed in the south-eastern corner of the site and a grassed area abutting the eastern boundary.

CHARACTER OF LOCALITY

The site is situated outside of the built up area boundary in a predominantly rural area on an unrestricted road . There is an existing agricultural style barn to the east of the site which is used by a fruit and veg wholesaler and shares the same access point onto the public highway. A domestic property lies to the immediate south.

RELEVANT SITE HISTORY

A/113/16/PL	Use of land for storage and distribution (B8 Storage or Distribution) & 3 No. storage containers. This application is a Departure from the Development Plan.	ApproveConditionally 05-10-16
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See Conclusion section of this report below.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Angmering Parish Council

1 letter of support

Promotes local business.

Site well screened from the road.

5 letters of objection:

Use inappropriate and out of character at this rural location.

Road unsuitable as single lane, unrestricted, unlit and cars cannot pass each other.

Danger to road users caused by significant increase in road traffic including cyclist,walkers, equestrians, accessing the South Downs National Park.

Scouting site opposite.

Water run off/drainage a problem at the site.

Pollution from petrol spillage/ light.
Lack of lighting.
Retrospective application. Site also used by Car Valet business.

Comments on the amended plans:
Revisions don't address surface water and highway safety issues.

COMMENTS ON REPRESENTATIONS RECEIVED:

The issues raised are addressed in the conclusions section.

CONSULTATIONS

Engineers (Drainage)
Engineering Services Manager
WSCC Strategic Planning
Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Angmering Parish Council

Whilst the Parish Council is generally supportive of development proposals which preserve land in the locality for employment and commercial use, there are three matters of concern which give rise to an objection:

- 1) Transport: the applicant has not stated how vehicle movements for delivery of stock and customer traffic would be dealt with;
- 2) Loss of trees and hedgerow: the need for removal of the laurel hedgerow and conifers on the southern edge of the site is not explained and will alter the character of the area to an unacceptable degree;
- 3) Flood risk: the removal of the trees and hedgerow will increase the risk of surface water runoff, which will exacerbate the existing drainage problems in the locality.

Revised Parish Council comments

This amendment does not address existing concerns regarding water drainage, access and layout. The access to a commercial operation is wholly unsuitable, and appropriate drawings (as requested by West Sussex County Council) have not been provided. We have concerns about vehicle movements. There is a surface water flood risk, highlighted by the District Council's engineer. Without a plan for dealing with surface water drainage, planning approval should be refused. We note there is no impact assessment report from an arboriculturist; however the District Council's Tree Officer has recommended a Tree Protection Order for tree 'T1'. However, we have concerns that this may still not provide adequate protection for tree 'T1'.

WSCC Highways

The site is situated in a rural location to the east of Angmering. The lane would be considered rural with no streetlights or footways. There are a number of business and agricultural operations which are accessed via Dappers Lane as well as a large housing development south of the site which has an access point onto Dappers Lane.

Access - whilst the access geometry appears to be sufficient, the street view from 2012 shows the

surface of the access mouth in a poor state of repair. The site access is within the derestricted section of the lane however it is located just north of the 30/60 termination sign. Therefore, given the rural nature of the road and the slight bend south of the access it is unlikely that speeds will be close to the 60mph speed restriction. It is therefore considered that visibility is acceptable, however splays will need to be maximised and the vegetation within the splays maintained. It is unlikely the Highway Authority would raise an objection to the proposal on traffic generation terms due to the existing business/uses along Dappers Lane. However the information provided is limited and it is not clear as to the size and type of car sales yard proposed and therefore the level of intensification in use cannot be determined.

It is noted however, that the permitted use for B8 Storage and Distribution could generate significant levels of traffic a large proportion of which could be large vehicles. There does not appear to be a plan which shows the parking layout, this is required.

In addition, please request the applicant provides additional information with regards to proposed traffic generation ie number of cars on sale, how cars will be delivered (ie on a car transport vehicle), any other operations which will happen on site (ie car maintenance/repair), anticipated number of customers etc. A commitment to the maintenance of the visibility splays and proposed improvements to the access surfacing are also required.

Tree Officer:

Comments on Application:

- No Tree Survey data or Arboricultural Impact Assessment has been submitted by the applicant.
- Following significant loss of established roadside trees at the site since 2014, there remains only one tree of value that is implicated by the proposed site development; a mature roadside oak (T1). It would easily qualify as a Category B tree using the BS5837 method when considering suitability for retention. This tree is showing signs of physiological distress, most likely attributable to the change in soil level imposed by the recent and historic formation of roadside bunds, introduction of new surface materials and driveway construction at the property adjoining to the south. All of this disturbance has occurred within the Root Protection Area (RPA) of T1. The tree remains viable for long-term retention and has a good chance of full recovery if further interference above and below ground is avoided.
- Site Block Plan, dwg.P1342 01 clearly defines a storage area for building materials reinforced by Condition 4 attached to the decision notice. This is outside of the RPA of T1. The proposed location of containers (if still an intention) is also shown to be outside the RPA, which is reassuring but not binding at this stage.

Conclusions:

- Despite the absence of arboricultural survey information and associated documents/plans, usually required as part of a planning application where notable trees exist; it is possible to afford the oak (T1) sufficient respect and protection by attaching appropriate conditions (see recommendations) to any approval.
- It is foreseeable that the ongoing use of this site, as described, will lead to a 'pressure to prune' if it does not already exist and thereby place further avoidable stress on a vulnerable tree of significant amenity value.
- There are no plans to locate any materials or semi-permanent structures within the RPA of T1, but there remains a risk of the latter occurring.
- I recommend APPROVAL for this application in its current form, subject to the following conditions being applied and the making of a Tree Preservation Order.
- No building materials or supplies to be deposited within the Root Protection Area (calculated as being 7.2m from the stem base) of T1.

- No siting of containers or other structures within the Root Protection Area of T1.
- The installation of post and rail fencing within the RPA of T1 must be undertaken with care so as to avoid damage.

Drainage Engineer:

Having looked at their plans, it is noted that the application will not make any improvements to the current surface water runoff arrangements on site, whereby surface water run-off is likely to be shed onto Dappers Lane in certain storm events, which in turn causes issues in Angmering village.

The removal of vegetation could add to these issues, although they are also undertaking some replanting.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The highway matters are addressed in the conclusions and conditions and therefore WSCC highways has not been re-consulted.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

OUTS BUILT AREA

SPEC CONT ADVTS

ART 4 DIRECTION

NO PUBLIC SEWER

PD RESTRICTION

DEVELOPMENT PLAN POLICES

TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
EMPDM1	EMP DM1 Employment Land: Development Management
ENVDM4	ENV DM4 Protection of trees
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
WDM3	W DM3 Sustainable Urban Drainage Systems

[Angmering Neighbourhood Plan 2014 POLICY EH2](#) Protect the Landscape setting of the South Downs National Park

Angmering Neighbourhood Plan 2014 POLICY EH3 Flood Prevention

Angmering Neighbourhood Plan 2014 POLICY HD1 Built-up Area Boundary

Angmering Neighbourhood Plan 2014 POLICY TM1 Local Highways

Angmering Neighbourhood Plan 2014 POLICY HD5 Built Form

Angmering Neighbourhood Plan 2014 POLICY HD8 Parking for New Developments

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2018, West Sussex County Council's Waste and Minerals Plans and the Angmering Neighbourhood Development Plan.

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."

OTHER MATERIAL CONSIDERATIONS

The Conclusions sections outlines how other material considerations have been taken into consideration in the determination of this application.

CONCLUSIONS

PRINCIPLE

The application site sits outside of the built area boundary where the principle of development is generally considered unacceptable in order for the countryside to be safeguarded for its own sake. The proposal is not considered to satisfy Policy C SP1 of the Arun Local Plan 2018 which seeks to protect the countryside for its own sake.

However, regard must be given to the existing approved use of the site. A/113/16/PL was granted on the basis that a B8 storage and distribution use related to the 'diversification of the rural economy' under the then policy GEN 3 (iii) of the 2003 Arun Local Plan. Therefore, should this current retrospective application be refused then the fall-back position will be for the site to revert to this approved use.

The approved use includes permission for three storage containers as well as the large shed in the SE corner. The external storage of building materials is limited to 2m across the site, whilst the agreed hours for unloading, loading or operation of machinery is limited to between the hours of:-

7.00am and 9.00pm Monday to Saturday and 9.00am and 5.00pm Sunday.

The number of cars that may be stored as part of this use is restricted to four.

The proposal seeks permission to use the site for the sale of up to 32 vehicles, although it is doubtful that such a quantum can be accommodated within the site. On the date of a recent site visit there were 14 vehicles and the site appeared about 2/3rd full.

On balance it is considered that unless the proposal gives rise to significant harm on specific issues the principle of the proposed use in this location is considered acceptable.

DESIGN AND VISUAL AMENITY

The proposal has been amended to retain the existing bund and planting on the roadside. This reduces the impact of the use inside the site and notwithstanding the proposal for a portacabin and toilet block in addition to an existing storage container and large shed causes no greater harm to the character of the rural area than the existing approved use.

RESIDENTIAL AMENITY

The residential property in closest proximity to the application site is Brackenside to the south which is situated approximately 72m away from the southern boundary of the site. Whilst, it is considered that the separation between the residential property and the proposed use is significant the proposal has the potential to give rise to some disturbance for nearby residents through the generation of noise through the valeting of cars and increased traffic (especially in a rural location).

Car sales is essentially a retail use and therefore has the potential to attract custom out of core working hours including weekends unless appropriately controlled. It would therefore, in the event of any approval, be appropriate to restrict the hours of operation and of any incidental valeting of vehicles on Saturdays, Sundays and Bank Holidays. It is recommended to restrict hours of operation to Monday to Friday 9 am - 5 pm and 10 am to 4 pm at any other time.

Due to the scale and location of the proposed development, and subject to appropriate conditions, it is not considered that the proposal will result in any unacceptably adverse overlooking, overbearing or overshadowing impacts and as such the proposal is considered to accord with the policies of the Local Plan.

HIGHWAY CONSIDERATIONS

The conclusions of the highway authority are set out above. They have not raised an objection to the development but have asked that the existing visibility splays are maintained and the junction of the access and the public highway is made good. The use will attract deliveries and customers. The operator advises that currently customer make bookings to visit the site. However, it would be difficult to condition this. That said, the scale of the site and operation is likely to have a natural limiting effect on the level of daily traffic movement generated by the proposal. In the circumstances it would be reasonable to limit any permission to an initial three year period. This will allow the operation under the terms of a permission (as opposed to an unrestricted and unregulated use) to be monitored to determine whether any highway impact is within acceptable tolerances.

DRAINAGE

Concern has been raised regarding surface water run-off from the site onto the highway and the impact that this has on both highway safety and the area generally. The access off the highway which serves an adjacent development is an existing concrete road. The the proposal doesn't change this. The site itself is laid with gravel/chippings. A permeable surface should be maintained to assist with natural surface water drainage.

TREES

The Tree officers advice is set out above. In order to improve the opportunity for the solitary tree which is proposed to remain a number of conditions are proposed to assist. It is also being assessed for a possible TPO.

CONCLUSION

Overall, whilst the proposal is not considered to accord with some of the relevant development plan policies it is considered that there are material considerations as set out above which would warrant the granting of a temporary planning permission.

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 use of land hereby permitted shall be discontinued permanently and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 31 July 2021

Reason: The proposed development is considered to be in conflict with the policies of the Development Plan, however there are material considerations which have warranted the granting of a temporary permission in order to allow the Local Planning Authority to monitor passively the impact of the development in operation.

- 2 The development hereby approved shall be carried out in accordance with the following approved plans TDA.2315.01; TDA.2315.02; TDA.2315.03 REV D

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy QE SP1 of the Arun District Local Plan.

- 3 No external lighting shall be installed on the site without the written approval of the Local Planning Authority.

Reason: To protect the residential amenities of the local environment in accordance with Arun District Local Plan 2018 policy QE DM2.

- 4 Any valeting of vehicles shall be incidental to the use of the land for the sale of motor vehicles only and shall be limited to those vehicles which are parked within the boundary of the site for sale.

Reason: To prevent the establishment of an activity which is independent of the primary use and which would lead to the intensification of the use of the site to the detriment of the locality and the residential amenity of local residents contrary to Arun District Local Plan 2018 policy QE SP1.

- 5 The use hereby permitted shall not be operated at any time otherwise than between the hours of 9am to 6pm Monday to Friday, and 10am to 4pm at any other time, including Bank Holidays.

Reason: To safeguard the amenities of the neighbouring properties in accordance with Arun District Local Plan 2018 policy QE DM1 & QE SP1.

- 6 No car repairs shall be undertaken from the site, but servicing is permitted provided it is incidental to the use of the site for the sale of motor vehicles.

Reason: To prevent the establishment of an activity which is independent of the primary use and which would lead to the intensification of the use of the site to the detriment of the locality and the residential amenity of local residents contrary to Arun District Local Plan 2018 policy QE SP1.

- 7 The junction between the public highway and the access serving the development shall be made good with either tarmac or concrete within three months of the date of this decision so that a safe means of access is provided and maintained.

Reason: In the interests of Highway safety and the aims and intentions of policy T SP1 of the Arun District Plan 2018.

- 8 The surface of the site shall be retained as a permeable surface at all times.

Reason: To make adequate provision for surface water disposal in accordance with policies EH3 of the Angmering Neighbourhood Plan and policy W DM3 of the Arun District Local Plan 2018.

- 9 The earth bank at the western edge of the site shall be retained at all times as per approved plan TDA.2315.03 REV D.

Reason: In the interests of the visual amenities of the area in accordance with policy C SP1 & ENV DM4 of the of the Arun Local Plan 2018.

- 10 No buildings or containers shall be placed within 10 metres of the tree at the southern end of the western boundary and no changes of existing ground levels as shown on approved plan TDA.2315.02 shall take place within the same radius of the tree within the application site and adjacent bank.

Reason: In order to protect the long term health of the tree in the interests of the visual amenities of the area in accordance with policies C SP1 and ENV DM4 of the Arun District Local Plan 2018.

- 11 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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.