

Recommendation Report for Planning Permission

REF NO: A/262/21/PL

LOCATION: Land off
Mayflower Way
Angmering
BN16 4AY

PROPOSAL: Variation of Condition following grant of A/219/17/PL relating to Condition No 10 - Arboricultural Implications Assessment.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	A/219/17/PL was subject to condition 10 which stated: "All activity at the site is to be carried out in strict accordance with: - Arboricultural Implications Assessment Report Ref: JH4.22, dated 9th November 2017 (Broad Oak Tree Consultants Ltd). - Before the site is occupied or any machinery is introduced to the site or demolition work or construction ground levels takes place a PRE-COMMENCEMENT Site Meeting is to take place between the Arun DC Tree Officer and the Arboricultural Expert representing the site owners - at this meeting all protective fencing will be inspected along with ground protection measures - they will be assessed to verify that they are 'Fit for Purpose' as required under British Standard 5837:2012 and have been erected and positioned exactly as shown on the Tree Protection Plan ref: J54.22/02, dated 05/11/2017. - If there is deemed to be a need for any Utility Service Route connections to bisect retained tree Root Protection Areas/Zones then prior to their installation a Method Statement prepared by an Arboricultural Expert must be submitted that stipulates how this can be achieved without adverse impact on tree roots. Written approval and confirmation of acceptance of this Methodology must be issued before any works are commenced out on site." This proposal seeks to vary this condition and allow for an alternative tree protection plan to be considered because the development can't be carried out in accordance with the approved 'Tree Protection Plan' ref: J54.22/02, dated 05/11/2017 since it will need to be adjusted at certain times to suit remediation in compliance with condition 3 of planning permission A/219/17/PL. The proposal includes a Protection Plan/method statement and an updated Arboriculturalist Impact assessment and incorporates remediation of soil in the
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Root Protection Areas (RPAs) as agreed by the tree officer.

It is understood that the line and type of bracing to the heras Tree Protection Zone (TPZ) fencing will remain in place until this application has been considered.

The agreed tree protection line (as per condition 10) runs the full length of the south boundary and is approximately 5m away from that boundary and similar on the west boundary, the tree protection line is 2m away and runs the length of the boundary. The soils within these root protection zones need to be remediated. Therefore, the application proposes stripping the ground undergrowth/foilage back to the boundary on both the south and the west boundaries of the site to facilitate remediation and reinstatement of the tree protection fence at the 5m and 2m offsets.

Further ground works (including turfing, garden paths and garden fencing) within the tree protection area will be undertaken towards to the end of the development and will be in accordance with the recommendations of working within a Root Protection Zone (RPZ).

TOPOGRAPHY

Predominantly flat.

TREES

An area of hawthorn and elder hedging to west is affected by the proposed development.

BOUNDARY TREATMENT

Hedging to western boundary to approx. 2m high and hedging to 3m to rear. Close boarded fencing to 1.8m to eastern boundary.

SITE CHARACTERISTICS

The site is enclosed by contractor fencing and development is close to commencement.

CHARACTER OF LOCALITY

Mix of residential and commercial uses. Bungalow adjacent to east and 2 storey dwellings to west.

RELEVANT SITE HISTORY

A/219/17/PL	12No. Social dwellings for Angmering Community Land Trust, including two communal bike stores, a pedestrian mews and orchard. Departure from the Development Plan.	App Cond with S106 18-10-18
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REPRESENTATIONS

Angmering Parish Council - No Comment

COMMENTS ON REPRESENTATIONS RECEIVED:

None.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

- none

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area Boundary
Parish Housing Allocation Site

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ENVDM4	ENV DM4 Protection of trees

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.

There are no relevant policies in the Angmering Neighbourhood Development Plan to take into account.

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 there would no adverse impact on the retention of existing trees.

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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The principle of the development has been agreed. It is only the issue relating to the amended plans in respect of tree retention which can be considered.

BACKGROUND

The application includes a revised Tree Protection Measures Report and a revised Tree Protection Plan. The previous Arboricultural Implications Assessment Report (dated November 2017) which was submitted as part of the planning application is referenced in Condition 10 of the Decision Notice. However, in fulfilling the requirements of Condition 3, which relates to potential contamination, site investigations have uncovered asbestos contamination.

Most of the site outside of the indicated tree protection areas shown on the Tree Protection Plan, drawing no. J54.22/02 has been investigated and contamination removed by machine/hand picking. The remaining areas to assess are within the protected rooting zones. To effectively check and remediate the remainder of the site the protective fencing alignment to the south needs to be temporarily revised and the hawthorn and elder hedging to the west removed. This is indicated as a new hedge on the approved landscaping plan which is controlled by condition 9 of planning permission A/219/17/PL and is indicated for removal on the revised Tree Protection Plan, drawing no. J54.22/02 Rev. B in Appendix 2 of the Tree Report. However it is noted that the approved hedgerow retention plan subject of condition 17 of planning permission A/219/17/PL discharged under A/55/21/DOC includes reference to this plan and discharge of this condition will therefore need to be re-submitted.

Once investigations and remediation are completed the report sets out fencing will be realigned as shown on the Tree Protection Plan for the duration of the main construction period. For the offsite Corkscrew Willow (T1) similarly the indicated ground protection measures will be installed as specified on the Tree Protection Plan once investigations and remediation within the theoretical root protection area (RPA) has been completed.

The submitted report advises that to minimise potential root damage and soil compaction, machinery associated with the investigative works will be located outside the indicated tree RPAs. A Banksman will monitor the excavation and if roots of over 10mm diameter are encountered hand tool excavation will continue. If roots of less than 25mm diameter need to be cut to allow access to deeper contaminated soils these will be cut with loppers/hand saws to minimise wound size and avoid root tearing associated with machine excavation.

If roots of greater than 25mm diameter are encountered the Project Arboriculturist is to be consulted as to whether they need to be retained and worked around with hand tools or can be safely removed. This will be dependent on the extent and nature of any contamination encountered.

Once contaminated materials have been removed the excavations are to be backfilled with good quality topsoil, lightly tamped in 150mm layers.

IMPACT ON TREES

Policy ENV DM4 of the Arun Local Plan requires development to protect and manage existing trees wherever possible. It also requires development to take a comprehensive view of tree issues at the early stage of the design process. In this instance, the application seeks to amend earlier approved details and is supported by revised Tree Protection Measures Report and Tree Protection Plan.

The amended report details how the trees will be adequately protected whilst allowing for remediation. The trees on the site will continue to be protected and the application follows discussions with Arun's Tree Officer.

It is considered that with the measures set out above as detailed in the tree report the impact on the trees on the site would be sufficiently minimised and the loss of the hedge would be mitigated by replacement approved in the agreed landscaping details in accordance with policy ENV DM4 of Arun Local Plan. The wording of condition 10 will be amended to refer to the revised tree report.

SUMMARY

The proposals do not result in a form of development that will significantly affect the retention of trees on the site. As a result, the changes are considered to be acceptable when assessed against the relevant development plan policies. The application is therefore recommended for approval subject to the following conditions.

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 Condition 10 imposed under A/219/17/PL is amended to read:
All activity at the site is to be carried out in strict accordance with the Revised Tree Protection Measures for Permissioned Development by Broad Oak Tree Consultants Ltd ref J54.22 dated 30th November 2021 and Tree Protection Plan J54.22/02 Rev B.

Reasons: To comply with BS5837 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised and they can continue to enhance the landscape and amenity of the area in accordance with policies D DM1 and ENV DM4 of Arun Local Plan.

- 2 INFORMATIVE: This permission relates to the variation of condition 10 of planning permission A/219/17/PL only. The applicant is advised and reminded that the other planning conditions attached to the original planning permission number A/219/17/PL remain in force and must be complied with.
- 3 INFORMATIVE: This approval affects the hedge retention plan approved under A/55/21/DOC in respect of compliance with condition 17 (ecology) of planning permission A/219/17/PL and a revised DOC will need to be submitted for consideration in this respect.
- 4 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.