

Recommendation Report for Planning Permission

REF NO: **A/84/12/**

LOCATION: Foschini's Nursery
 Hangleton Lane
 Ferring

PROPOSAL: New house replacing mobile home. (Resubmission following A/129/11).
 Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal is for a permanent dwelling to replace an existing static caravan. The lawful use of the caravan as a residential dwelling was established under A/94/09/CLE when it was established that the caravan had been used as a residential dwelling for a period exceeding 10 years without a complaint being made to the Council.
SITE AREA	Approximately 360 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The northern and eastern site boundaries are marked by a mixture of hedging, some laurel, and fencing of approximately 1.8 metres in height. Frontage 2.4m high hedging approximately.
SITE CHARACTERISTICS	The site is occupied by a static caravan which is positioned to the front of it. There is currently hardstanding behind the caravan which appears to be in use for storage of materials and parking.
CHARACTER OF LOCALITY	The site is located beside a rural road which is outside of the built-up area. The road is lined by horticultural and equine buildings with occasional residential dwellings and a drainage ditch and hedgerow borders its western side. Part of the curtilage of the site falls within a hardstanding yard area. There are metal and glass roofed nursery buildings to the south and west. Carol Anne House, which is a residential dwelling, is adjacent to the site to the north. 2 storeys with dormers in roof.

RELEVANT SITE HISTORY

A/94/09/CLE	Application for Certificate of Lawfulness for an existing use - Siting of a residential mobile home	Approve 24-11-2009
A/129/11/	New dwelling replacing mobile home. (This application is a Departure from the Development Plan)	Refused 25-11-2011

REPRESENTATIONS

Representations received:

Angmering Parish Council

No objection.

FERRING CONSERVATION GROUP:

Objection:

Lane is outside built-up area of Ferring and is of semi-rural character. Contrary to development plan. Should monitor restrictions. Approval would set a precedent.

Comments on Representations received:

Noted. The principle of a residential dwelling at the site has already been regularised through the grant of a Certificate of Lawful Use under A/94/09/CLE.

CONSULTATIONS

Engineering Services Manager
Engineers (Fluvial Flooding)

Consultations responses received:

Engineers:

Use of rainwater harvesting is acceptable soakaway design supported by percolation testing as required. Apply Condition ENG2A

Comments on Consultation responses:

None.

POLICY CONTEXT

Designation applicable to site:
Outside built-up area

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced 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. It should be noted that the NPPF states

that weight is given to individual policies and not to the plan as a whole.

The emerging local plan has recently been approved by the Council and is therefore a material consideration in the determination of this planning application. Whilst it has not been formally adopted due weight has been given to its policies in terms of the decision making process at this stage.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN3	Protection of the Countryside
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

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 conflict with relevant Development Plan policies in that it would visually consolidate residential development to a degree that would undermine the rural character and appearance 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 site is located outside of the built-up area where the principle of development is unacceptable, unless it qualifies as an exception. When the application for a Certificate of Lawful Use for the site for a residential unit was submitted, the area of the curtilage was approximately 143 square metres, the caravan sited on it housing one bedroom. The current application has increased the size of the plot to approximately 360 square metres whilst the proposed dwelling, a two-storey house, will provide four bedrooms. The proposal is considered to be an unacceptable intensification given its rural location and the increase in both dwelling and plot size.

Given the planning history of the site and the fact that a modest mobile unit of extremely limited visual impact exists on the land, there is no justification to replace this with a permanent two-storey dwelling which would have a significant visual impact. Any proposed replacement dwelling should have regard to the limitations of a mobile home to ensure a minimal visual impact, namely a floor area that does not exceed the maximum achieved under the Caravan Sites Act 1968, Part

III, Section 13, and a single storey height. Even then, strong consideration would have to be given to the principle of replacing a mobile structure with a permanent building and convincing reasons put forward to justify the permanence.

This application is a resubmission of A/129/11 which was refused. The red edge to the application site has not been reduced and is as previously submitted and refused under this reference and the footprint is identical. The roof of the dwelling has been reduced in span and hipped and reduced in height, but the dwelling is still two storey and the amended plans do not reduce the footprint or the amount of development significantly or provide any justification for a dwelling of this size. The Design and Access Statement has not been altered. It refers to the applicant, Mr Gian Luca's requirement for a 4 bedroom house on the site to provide a separate bedroom for each of his 3 children. When the Certificate application A/94/09/CLE was submitted it was stated that Gian Foschini's father, resided in the mobile home in February 1995. In December 1995 he moved into Carol Anne House and his son (the current applicant) continued to reside in the portacabin until October 1997. From October 1997 the cabin was lived in by Gian Foschini's friend Mark Hampshire who had no plans to vacate. The applicant had vacated the cabin to reside in rented accommodation elsewhere in October 1997. In 2006 he was living in Dovecot mobile home on Foschinis Nursery with his wife and 2 children. There is no evidence stating who the current occupier of the cabin is or whether the applicant still has an alternative home on the Nursery site.

It is therefore recommended that the application is refused for the following reasons.

HUMAN RIGHTS ACT

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, the right to respect for private and family life, and 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 the applicant's 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

In assessing this proposal no negative 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).

RECOMMENDATION

REFUSE

- 1 The proposed replacement two-storey dwelling, by reason of its permanence, scale, massing and height, would be harmful towards the visual amenities rural character and appearance of the surrounding area, in conflict with policies GEN3 and GEN7 of the Arun District Local Plan.
- 2 There is no justification for the increase in plot size which would cover twice the size of the existing curtilage and would represent an unacceptable encroachment into the surroundings, consolidating residential development in a rural location, in conflict with Arun District Local Plan Policy GEN3.