

Recommendation Report for Planning Permission

REF NO: BE/66/18/PL

LOCATION: 1 Nye Cottages
Shripney Lane
Bersted
PO22 9NU

PROPOSAL: Change of use from single dwelling house with garden building at rear to a mixed use with dwelling house & only garden building at rear to be used as a holiday let.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	It is proposed to retain the existing holiday use of the garden building. This is let for short breaks via the website AirBnB. The site also comprises of a small amenity space and a double car port.
SITE AREA	0.0306 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	1.7m timber fence with trellis (2.2m total height) to 2 Nye Cottages. At the very rear of the site, there is a short section of much lower fencing (say only 1.3m) which allows views into the neighbouring property in the proximity of a static caravan as located at the rear of their site. The boundary to the access road on the west side is a 1.8m timber fence, part with trellis to a height of 2.2m. The boundary to 1 Nye Cottages is formed by a 1.7m timber fence with gate.
SITE CHARACTERISTICS	Dark stained timber single storey cabin type building comprising of one double bedroom, a WC/shower and a lounge/diner with kitchenette. Private amenity space (part grass, part hard surfaced) wraps around on the east and south sides. Covered seating area to rear and hot tub on east side. Double car port to west which is accessed from the neighbours driveway for which it is understood that the applicant has a right of way over. Further (third) open parking space situated between the car port and the southern boundary.
CHARACTER OF LOCALITY	The area is considered to be rural but with a row of around 11 dwellings located on the southern side of Shripney Lane. Agricultural fields to the rear and also beyond the road to the north and west.

RELEVANT SITE HISTORY

BE/6/60/A

5 Agricultural Workers Houses

ApproveConditionally
16-08-61

BE/6/60

Outline Application For 5 Agricultural Dwellings

ApproveConditionally
20-07-60

Noted.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bersted Parish Council

"No objection"

Two letters of 'objection' from the owner of the neighbouring property, Gash House, raising the following concerns:

- (1) Holiday people use the Gash House driveway to access the parking but could use parking spaces to the front of 1 Nye Cottage;
- (2) Holidaymakers intrude on privacy when using Gash House access drive;
- (3) Holidaymakers sometimes turn around in Lambert Cottage's driveway;
- (4) Request a condition saying no noise after 11pm; and
- (5) Fire safety risk from log cabin.

One letter of 'no objection' from a resident living elsewhere in Shripney raising the following points:

- (6) Could there be a requirement that adequate signage be maintained by the applicant (to avoid vehicles turning in the driveways of adjoining properties);
- (7) Requirement that tenants avoid making noise after say 11pm; and
- (8) Neighbours should be given contact information to advise of any problems and request assistance when the owners are away.

COMMENTS ON REPRESENTATIONS RECEIVED:

The following comments are made in response to the points raised by the representations:

- (1) Land ownership/rights of way are not capable of being considered under the planning process and it is possible to grant planning permission for land not in the ownership of an applicant. The applicant claims that they have a legal right of way over the driveway to access the parking spaces at the rear of their property. The property does also benefit from off--street parking within the frontage but it would not be reasonable to insist that the holiday makers park there and walk to the rear holiday cottage and that the owners park at the rear and then walk to the their front door.
- (2) It is accepted that persons walking on the driveway could look into the windows of the neighbouring property which are relatively unscreened from the driveway. However, these persons are not considered likely to stand and stare and as such the impact is only temporary and limited in nature.
- (3) It is not considered that it is necessary to do this as it should be possible to go past the car port and then reverse into the spaces. It is clear from the comment made (i.e. reference to sometimes) that most

holidaymakers do not need to use the private driveway) and as such the impact of this is likely to be temporary and limited in nature. However, ultimately this is a private legal matter and the neighbour could erect a gate or similar to prevent access to their land.

(4) Such a condition would fail the 6 condition tests as set out in the National Planning Policy Framework as it would not be reasonable (given that the building is occupied past 11pm - and that the suite owners can currently use the cottage at any time if it is not let out) and that the condition would be difficult to enforce as noise past 11pm would not be unreasonable in a residential type environment.

(5) Fire safety and the flammability of a building is not a material planning consideration.

(6) In response to this, the applicant has put up new signage to clearly indicate the parking for the holiday cottage.

(7) & (8) The applicant includes a list of rules on their AirBnB listing which include rules on no parties/events; no children under 12 years and clear guidance on where guests should park. Guests must click to say they understand the rules when making the booking. Guests are also then also sent advice on the parking facilities.

CONSULTATIONS

Economic Regeneration

CONSULTATION RESPONSES RECEIVED:

ADC ECONOMIC DEVELOPMENT - "Economic Development has no objection to this application and is always keen to see additional, quality visitor accommodation."

COMMENTS ON CONSULTATION RESPONSES:

Comment noted.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
Class C Road;
Special Control of Adverts;
Overhead Electric Line; and
Archaeological Notification Area.

DEVELOPMENT PLAN POLICES

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
SDSP1	SD SP1 Sustainable Development
TOUDM1	TOU DM1 Tourism related development
QESP1	QE SP1 Quality of the Environment

[Bersted Neighbourhood Plan 2014 Policy ES7](#)

Bersted Neighbourhood Plan 2014 Policy HDQ6

Bersted Neighbourhood Plan 2014 Policy HDQ8

Development outside of the Built Up Area Boundary

Outdoor space

Car parking

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-31, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

The relevant policies of the Bersted Neighbourhood Development Plan have been considered in the preparation of this report.

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 it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon 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

PRINCIPLE:

The new Arun Local Plan 2011-2031 (ALP) was adopted on the 18th July. The application site lies outside of the defined settlement boundary (built up area boundary or BUAB) as shown within the ALP and therefore falls within countryside. Policy C SP1 states that development in the countryside will only be permitted where it relates to certain criteria. It is considered that the proposal is capable of being either (d) for the diversification of the rural economy or (f) in accordance with other policies in the Plan

which refer to a specific use or type of development - and as such would be appropriate development within the countryside.

Policy TOU DM1 states that holiday accommodation outside of the BUAB can be acceptable provided that they are small scale and relate to quiet, informal recreation and enjoyment of Arun's countryside. Furthermore, in all cases, development in the countryside must demonstrate that it is compatible with its countryside location and is sensitively designed to minimise potential impact on the countryside.

It is considered that the proposal would comply with policy TOU DM1 in that it is very small in scale and allows for a limited number of people at a time to enjoy this part of Arun's rural environment. The holiday accommodation use and associated rules have also been designed by the applicants to minimise any harm to neighbouring properties. It is therefore considered that the proposal represents acceptable development within the countryside.

It is also necessary to consider the policies of the Bersted Neighbourhood Development Plan (BNDP). The BNDP was made (adopted) in July 2014 on the basis of the saved policies in the 2003 Arun District Local Plan and the draft policies in the 2014 publication version of the emerging Arun Local Plan.

The proposed site is also outside of the BUAB within the BNDP and therefore policy ES7 is relevant: "Development outside of the built-up area boundary, as shown in Appendix F, development or redevelopment will not be supported." The proposal would be in conflict with this policy. However, section 38 (5) of the Planning and Compulsory Purchase Act 2004, states that: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Therefore, any conflict between the Bersted Neighbourhood Development Plan and the Arun Local Plan 2011-31, should be resolved in favour of the latter.

Furthermore, it is not considered that a proposal could be refused due to it being located in the countryside unless there was corresponding harm. The remainder of these conclusions will assess whether the proposal results in any harm to the road network, local character or the amenity of neighbouring properties.

It is also noted that paragraph 83 of the National Planning Policy Framework (NPPF) states that: "Planning policies and decisions should enable: (a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and (c) sustainable rural tourism and leisure developments which respect the character of the countryside." This further supports the principle of the proposal.

CHARACTER & VISUAL AMENITY:

ALP policy D DM1 requires that the Council have regard to certain aspects including:

(1) Character - "Make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features.";

(2) Appearance/attractiveness - "Demonstrate a high standard of architectural principles, use of building materials, craftsmanship and hard and soft landscaping to reflect the local area";

(13) Density - "The density of new housing will make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. Proposals should take into account the density of the site

and its surroundings. The density of large sites should be varied to guard against uniformity"; and

(14) Scale - "The scale of development should keep within the general confines of the overall character of a locality unless it can be demonstrated that the contrary would bring a substantial visual improvement."

Furthermore, policy D SP1 "Design" states that:

"All development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details"

It is not considered that the change in the use of the building results in any visual harm to the character of this area given that the building is located in the garden of an existing dwelling which itself is within a group of dwellings with private gardens and other garden buildings. Indeed, no. 2 Nye Cottages to the immediate east has a static caravan in its rear garden. Furthermore, the ancillary features (hot tub, covered outdoor seating area) are not untypical of a residential garden. It is therefore considered that the proposal complies with policies D DM1, D SP1 of the Arun Local Plan.

RESIDENTIAL AMENITY

Arun Local Plan policy D DM1 requires that the Council have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance." Furthermore, policy QE SP1 states that:

"The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District."

There are no policies within the BNDP which refer to residential amenity issues. However, regard should also be had to paragraph 127 of the NPPF which states that:

"Planning policies and decisions should ensure that developments: (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

The building and its garden are well screened behind existing boundary treatments and as such there are no overlooking or loss of light issues to consider. The gap in the fencing to 2 Nye Cottages is noted but the views of this part of the neighbours garden are not considered to be harmful to their privacy. Furthermore, if it was a problem then the owner of the fence (whether applicant or neighbour) could raise the height of the fence to 2m without planning permission.

The objections of those neighbouring properties to the west of the site are noted but these seem to be mainly concerned with the use of the right of way over the access drive and not with the use of the building/its garden. As noted above within the "Officers Comments on Reps" section, it is not considered that the impacts (people walking past windows or turning on private land are likely to result in constant or long lasting harm and it would not therefore be possible to sustain a refusal on such grounds.

There is considered to be an acceptable relationship between the applicants house and the holiday

cottage with a fence between the two - and with the applicant having control of the intensity of the use of the cottage. Furthermore, with the applicants living adjacent they are on hand to manage the holiday use and as such ensure there is no noise disturbance to adjacent properties.

It is therefore considered that the proposal complies with policies D DM1, QE SP1 of the Arun Local Plan and the guidance within the NPPF.

INTERNAL AND EXTERNAL SPACE STANDARDS:

Although the holiday cottage will not be occupied on a permanent basis, it is necessary to ensure that it still provides a good standard of accommodation. ALP policy D DM2 states that:

"The planning authority will require internal spaces to be an appropriate size (having regard to the exceptions that may apply as referred to in paragraph 13.3.4) to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance."

The proposed holiday cottage offers only very basic facilities and its floor area at 19m² reflects this. This does not comply with the standards but is considered to be acceptable based on the cottage being an existing building, on the temporary holiday nature of the use and the fact that people will choose (i.e. not be forced to) to stay at the site. Such a low floor area would not however be acceptable as a separate residential dwelling.

Arun Local Plan policy D DM1 refers to the need for compliance with the Arun Design Guide. This is to replace policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Until such time as this Design Guide is published, there is no policy within the Arun Local Plan regarding private gardens sizes. However, regard should be had to paragraph 127 of the NPPF which requires that new development has a high standard of amenity for existing and future users. In addition, policy HDQ6 of the BNDP states that "A private outdoor garden amenity space, or a shared amenity area must be provided for all new dwellings. The proposal complies with this as the cottage has its own private amenity space which is of a size that is sufficient for a holiday but would not be acceptable itself as a separate residential dwelling.

The proposal therefore complies with ALP policy D DM1 and with BNDP policy HDQ6.

HIGHWAYS & PARKING:

Arun Local Plan policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of parking, it states that:

"The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking"

In respect of highway safety, it states that:

"The Council will support transport and development which: Explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Bersted Neighbourhood Plan Policy HDQ8 requires a minimum of two spaces per dwelling. It also states that developments which remove off road parking spaces will not be supported unless alternative provision is made which increases or maintains the number of parking spaces.

Regard should also be had to paragraph 109 of the NPPF which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

The site benefits from off-street parking at both the front of the house (2 spaces) and the rear (3 spaces) and as such is in accordance with the relevant policy. Furthermore, it is not considered the occasional access of the holiday property by 1 or possible 2 cars amounts to a use that materially intensifies the existing residential use of the site to such an extent as to create harm to the safety and convenience of the highway. It is not therefore considered that the proposal is in conflict with the relevant Arun Local Plan or Bersted Neighbourhood Development Plan Policies.

CONCLUSION:

The proposal is considered to comply with all of the relevant the Arun Local Plan or Bersted Neighbourhood Development Plan Policies and it is not considered that any part of the proposal results in harm that would be unacceptable in what is a residential environment bordering agricultural land. A condition will be imposed to ensure that there is no permanent separate occupation of the building. On this basis, it recommended that the application be approved 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 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

Location Plan (1:1250);
Site Plan (1:500);
Existing Elevations (1:100); and
Ground Floor Plan (1:50).

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.

- 3 Notwithstanding the provision of Part C, Class C3 Dwelling House to the Schedule of the Town and Country Planning (Use Classes) Order 1987, (or any order revoking or re-enacting that order), the premises shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior permission of the Local Planning Authority. The property shall not be occupied by any persons for a total period exceeding 28 days. The owner shall maintain a register of occupiers for each calendar year which shall include:

1) The full names, occupation, permanent address and contact telephone numbers of all of the person(s) occupying the premises; and

2) The start and end date of the stay and the purpose of the stay.

The register shall be made available for inspection by the Local Planning Authority at any time, and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The building and the associated garden is considered to be unsuitable in size to be a permanent dwelling and occupation as a dwelling would result in an unsatisfactory relationship with 1 Nye Cottages. In accordance with Arun Local Plan policies D DM1 & D DM2 and the guidance on good design in the National Planning Policy Framework.

- 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.