

Recommendation Report for Planning Permission

REF NO: BE/71/17/PL

LOCATION: Unit 1 Railside Retail Park
Shripney Road
Bognor Regis

PROPOSAL: Application for variation of approved surface water drainage scheme pursuant to condition No. 13 imposed under planning permission BE/94/15/PL

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

It is understood that Wickes have implemented the approved surface water drainage scheme which discharges into the existing Network Rail culvert to the east of the site. However, there now is a desire to change the scheme to re-route the storm water drainage to the existing surface water connection that has been installed by Sainsbury's, which is located directly to the south of the site. The means of surface water disposal will now incorporate a pumping station system.

SITE AREA

0.74 ha.

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

Low knee rail type fencing around the public car park to the front. Security mesh fencing to the rear of 4m with additional 2m netting above/behind.

SITE CHARACTERISTICS

Recently built Wickes retail store with car parking to the front.

CHARACTER OF LOCALITY

Clock Park Estate is located to the north and comprises an area of small scale commercial/trade uses separate from the main body of the industrial estate. Sainsbury's store on the opposite side of the access road to the south. Beyond the A29 lies a retail park (Arun Retail Park) and Tesco store with a number of other commercial uses. To the east the land is open and relatively undeveloped, although it includes mainly a disused airfield site with a tarmac surfaced runway, which forms part of a "Local Gap" separating Bognor Regis and Felpham.

RELEVANT SITE HISTORY

BE/94/15/PL	Erection of 1no. retail warehouse (Class A1) including mezzanine, outdoor project centre & secure compound, access & servicing arrangements, car parking, landscaping & associated works	ApproveConditionally 05-10-2015
BE/13/16/DOC	Application for approval of details reserved by condition imposed under BE/94/15/PL relating to conditions 13 & 15 for surface water & foul drainage.	Approve 14-03-2016

The surface water condition was previously discharged by application BE/13/16/DOC for which the decision notice stated that:

"The submitted drainage scheme as detailed within the drawings "Drainage Scheme" Ref 15-112/300 Rev C2 & "Drainage Details" Ref 15-112/301 Rev C1; the Hydrock "Flood Risk Assessment and Surface Water Drainage Strategy" (Ref R/151222/002) and the Bradbrook Consulting Drainage calculations sheets has been appraised by our Drainage Engineers and by the Environment Agency and is considered to be sufficient to allow the local authority to approve the scheme. The condition is therefore fully discharged insofar as the submitted details relate and on the understanding that the surface water drainage scheme will be implemented in accordance with the approved details."

REPRESENTATIONS

Representations received:

Bersted Parish Council

"No objection"

Comments on Representations received:

Noted.

CONSULTATIONS

WSCC Strategic Planning
Engineering Services Manager
Surface Water Drainage Team
Parks and Landscapes
Engineers (Drainage)
Environmental Health
Environment Agency
Network Rail
Economic Regeneration

Consultations responses received:

ENVIRONMENT AGENCY - Raise no objection on the basis that the pollution control measures for the scheme are the same as before.

NETWORK RAIL - Raise no objections provided that the developer/applicant does not encroach onto Network Rail land or affect the safety of the railway line. They state that no surface water discharge into NR culverts is allowed other than with an agreement

ADC ECONOMIC DEVELOPMENT - No comments.

ADC DRAINAGE ENGINEERS - Substantial negotiation has taken place with the Councils Engineers in order to first understand the reasons for the change to the surface water drainage scheme, the reasons for a pump station system and second to agree a scheme that meets all requirements. There are six separate responses from the Councils Engineers on the website but the following extracts demonstrate that no objection is raised:

19/06/17 - "The proposal for surface water drainage disposal now incorporates a pumping station which is not a sustainable method of disposal. There appears to be no reason given as to why they are seeking to divert flows into the Sainsbury's system. I would assume the reasons revolve around the Network Rail culvert into which the present scheme discharges. The applicant needs to provide a full explanation as to why the change is needed. We can then consider the proposals further."

28/06/17 (1) - "..... the pumping is my concern, as it is not sustainable from a drainage point of view. Based upon the fact that much of the previous site discharged surface water through the network rail culvert, and that flows are not being increased, it seems unreasonable that Network Rail are holding them to ransom, as they are not making the situation any worse. Perhaps we should be challenging Network Rail on this fact?"

28/06/17 (2) - "The applicant would have a legal right to continue to discharge the same amount of water through the network rail culvert (culverted watercourse), at a rate no greater than that discharged from the former development. By the sounds of it Network Rail are probably holding them to ransom in terms of asking them to pay a large annual fee in order for them to continue to use the culvert. The question is, can they legally do this? Perhaps we need initially to obtain a copy of the licence that Network Rail are presenting them with?"

10/07/17 - "Whilst I acknowledge the difficulties due to Network Rail's requirements, and the fact that the pumping station option may be commercially sustainable in this instance; it is not however environmentally sustainable in the long term. It's a shame the original gravity option to the Sainsbury's system was not implemented, and was clearly an oversight. Having said that, we appreciate the predicament, and will in this case accept the principle of the pumping option. In order to progress matters in terms of formal approval,"

09/10/17 - "Proposals are now acceptable and the condition can be discharged."

Comments on Consultation responses:

Comments noted. Confidential information was received in respect of the Network Rail lease to use the culvert and this demonstrated that there is an impact on the viability of the site/business.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area; and
No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: GEN7
GEN9

The Form of New Development
Foul and Surface Water Drainage

Publication Version of the Local
Plan (October 2014):

D DM1 Aspects of Form and Design
Quality
W DM3 Sustainable Urban Drainage
Systems

Bersted Neighbourhood Plan 2014 Policy ES2

Surface water management

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account. The examination is due to re-commence in Autumn 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

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 written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Bersted Neighbourhood Plan policies are referenced in this determination.

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 site is located within the built up area boundary where the principle of new development is considered to be acceptable subject to other policies in the development plan. Furthermore, the site benefits from a planning permission which has already been fully implemented. The changes proposed by this application concern only the means of discharging surface water from the site and therefore it is only necessary to consider the proposals against relevant drainage policies.

DRAINAGE:

Arun Local Plan policy GEN9 states that: "Planning permission for development which will materially increase foul and/or surface water discharges will be refused unless the Local Planning Authority is satisfied that either adequate drainage capacity exists or appropriate drainage capacity can be provided as part of the development. Consideration should also be given to the use of Sustainable Urban Drainage Systems (SUDS) as alternatives to conventional drainage where appropriate."

It is also necessary to consider policy ES2 of the Bersted Neighbourhood Plan:

"New development should aim to reduce the overall level of flood risk in the area:

- Surface water management measures will be required for development proposals to ensure that the risk of flooding both on-site and downstream is not significantly increased.
- The concept of Sustainable Urban Drainage Systems (SuDS) as an alternative to conventional drainage will be supported provided that they can be shown to be suitable in the intended location."

Finally, it is considered that policy WDM3 of the emerging Local Plan (Arun Local Plan 2011-2031 Publication Version showing Modifications) should attract significant weight. This states at (f) that: "(Developers must) follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations and the SuDS manual produced by CIRIA."

The Councils Engineers have been consulted on this application. Their clear preference is for the use of gravity fed drainage systems and they do not consider that a pumping station option is sustainable. However, the applicant has provided justification for the use of the pumping station and this has been accepted as being more commercially sustainable than the current system of discharge into Network Rail's culvert. On that basis, Engineers worked closely with the applicants to ensure that the proposed system was fit for purpose and including monitoring alarms & maintenance measures in order to avoid any future issues. No objection is therefore raised and on that basis, it is considered that the application is in accordance with the relevant development plan policies.

SUMMARY:

The application seeks only to make a change to the approved surface water scheme. This change has been agreed with the Councils drainage engineers and it is therefore considered planning permission should be granted subject to the following.

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 approved shall be carried out in accordance with the following approved plans:

Location plan dwg. 13379-100;
Approved Drainage Scheme plan dwg. 15-112/300 Rev C10;
Proposed Drainage Scheme plan dwg. 15-112/302 P1;
Pump Station Details plan dwg. 15-112/500 P3;
Sainsburys Engineering Layout Sheet 2 of 2 plan dwg. 00404 Rev X1;
Xylem Letter ref 17-SALSHQ-00678 Alt. 1 Ver. 1 with Pump Description & Specification;
Xylem Flygt 3153 Pump Installation, Operation and Maintenance Manual; and
Bradbrook Maintenance and Periodic Inspection of below Ground Drainage and Ancillary Items.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies GEN7 and GEN9 of the Arun District Local Plan.

- 2 The approved pumping station shall be regularly maintained in accordance with the submitted Xylem Flygt 3153 Pump Installation, Operation and Maintenance Manual in order to continue to be fit for purpose.

Reason: To ensure that the development continues to be satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.

- 3 **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.
- 4 **INFORMATIVE:** This permission does not alter any of the conditions previously imposed on application BE/94/15/PL. It does however alter the surface water drainage scheme as previously approved by discharge of condition application BE/13/16/DOC.
- 5 **INFORMATIVE:** As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts Asset Protection Sussex (AssetProtectionSussex@networkrail.co.uk) prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset

BE/71/17/PL

Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at www.networkrail.co.uk/aspx/1538.aspx.