

Recommendation Report for Planning Permission

REF NO: BE/83/17/PL

LOCATION: Land adjacent to 385 Chichester Road
& 24 Ashurst Close
Bersted

PROPOSAL: 1 No. dwelling & associated parking.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The proposed scheme was amended on the 14th September in an attempt to reduce the impact of the proposal. The scheme comprises of a new one and a half storey, one bedroom dwelling with two off-street parking spaces and private garden. The dwelling would be 2.5m to the eaves and 6.4m to the ridge. First floor windows are proposed in the south, west and east elevations with the eastern being a small dormer. A short section of 2m high fence is shown in the rear garden to screen out views of the garden from 285 Chichester Road. A cycle storage shed is also included.

SITE AREA

0.0291 hectares.

RESIDENTIAL DEVELOPMENT DENSITY (NET) 34.3 dwellings per hectare.

TOPOGRAPHY

Predominantly flat.

TREES

Small fir tree in the far northern corner and another immature tree at the southern end, both of which would remain. More fir trees on the other side of the boundary with 385 Chichester Road and extending around along the front side of 24 Ashurst Close.

BOUNDARY TREATMENT

- * Brick wall with close boarded fencing inserts to height of 1.7m along road frontages;
- * 2m high close boarded fencing to the boundary with 385 Chichester Road; and
- * 1.9m high close boarded fencing to 23/24 Ashurst Close.

SITE CHARACTERISTICS

Corner plot with road frontage onto both Chalcraft Lane and Ashurst Close. The site is grassed (mown) and has a right of access over part of the front driveway area of 23-24 Ashurst Close.

CHARACTER OF LOCALITY

Predominantly residential save for a public house in the centre of the roundabout to the north and a retail store on the opposite side of the road to the east. Two storey semi-detached properties in Ashurst Close. Mix of two storey and single storey properties on Chalcraft Lane with predominantly front gardens and set back from the street. The following was observed of neighbouring properties:

- * 23-24 Ashurst Close - first floor front bedroom & bathroom windows which face the southern part of the site; and
- * 285 Chichester Road - detached bungalow which is built up against the boundary and has a secondary lounge/kitchen window on the same boundary which allows clear views of part of the proposed garden.

RELEVANT SITE HISTORY

BE/48/10/	Construct 2no. 4 bedroom semi-detached houses	Refused 25-08-2010
BE/110/11/	Construct 2no. new semi-detached houses with associated parking, driveways & landscaping - Resubmission of BE/48/10	Withdrawn 25-10-2011
BE/112/12/	Construct 1no. 2 storey house & 1no. first floor apartment with associated parking & landscaping	Withdrawn 26-02-2013

The site has been subject to two previous withdrawals and a refusal, the refusal (for two dwellings) being for the following reasons:

(1) "The proposals, on a very small site, would introduce a form of development that would be significantly at odds with the character of the area in terms of build line and scale. They would appear very cramped in an area with a spacious and open character. They are therefore contrary to Arun District Local Plan policy GEN7 and policy statements in PPS1 and PPS3."

(2) "The inaccurate application plans fail to show the adjoining property correctly. This property would directly overlook the proposed amenity area for plot 2. The proposals would also introduce first and second floor windows that would overlook properties and amenity areas to adjoining properties. They would fail to respect the residential amenity of occupants of both existing and proposed dwellings contrary to Arun District Local Plan policy GEN7."

(3) "The proposed amenity area for plot 1 is inadequate for a family sized dwelling, would not provide an adequate living environment and would therefore be of unacceptable design contrary to Arun District Local Plan policy GEN7."

(4) "Only one car parking space is proposed for each dwelling and only one of those spaces is independently accessible. This is insufficient and contrary to Arun District Local Plan policy GEN12. It would also lead to additional on-street car parking in close proximity to the roundabout junction, which would cause obstruction on the approach contrary to Arun District Local Plan policy GEN7."

The history of the formation of the site is not fully understood and it is not possible therefore to say whether it was ever part of the land associated with 285 Chichester Road. It is noted though that an application to extend 285 was made in 1988 (ref BE/86/88) and that the application site was at that time in separate ownership to that of 285.

REPRESENTATIONS

Representations received:

Bersted Parish Council

"Object as this is an overdevelopment of the site and highway safety as the access is near the junction with Chalcraft Lane"

One letter of 'no objection' from the occupiers of 24 Ashurst Close: "Just wandered where on the plans that the trees at the current site are marked....?"

Comments on Representations received:

The Parish comments will be considered within the report conclusions section. Regarding the neighbour letter, existing trees are shown on the submitted plans.

CONSULTATIONS

Natural England

Southern Water Planning

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Consultations responses received:

NATURAL ENGLAND - No objection subject to mitigation being secured in respect of the Pagham Harbour Special Protection Area.

SOUTHERN WATER - No objection subject to an informative.

WSCC HIGHWAYS - Advise that there have been no recorded injury accidents at the nearby junction of Ashurst Close with Chalcraft Lane and that there is no evidence to suggest that the junction is operating unsafely, or that the proposed dwelling would exacerbate an existing safety concern. Consider that two parking spaces meets with the anticipated demand for a dwelling of this size. Also consider that vehicles can turn within the site/access area and thus enter & leave in a forward gear. Raise no objection subject to conditions.

ADC DRAINAGE ENGINEERS - no comments received.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary;

Class A Road; and
Class C Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>AREA13</u>	Sites of International Importance for Nature Conservation
	<u>GEN2</u>	Built-up Area Boundary
	<u>GEN7</u>	The Form of New Development
	<u>GEN9</u>	Foul and Surface Water Drainage
	<u>GEN12</u>	Parking in New Development
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality
		D DM2 Internal Space Standards
		D DM3 External Space Standards
		D SP1 Design
		SD SP1 Sustainable Development
		SD SP2 Built-Up Area Boundary
		ENV DM2 Pagham Harbour
		T SP1 Transport and Development
		W DM3 Sustainable Urban Drainage Systems
Bersted Neighbourhood Plan 2014 Policy ES1		Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2		Surface water management
Bersted Neighbourhood Plan 2014 Policy HDQ2		Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ3		Windfall sites
Bersted Neighbourhood Plan 2014 Policy HDQ5		Design of new housing development
Bersted Neighbourhood Plan 2014 Policy HDQ6		Outdoor space
Bersted Neighbourhood Plan 2014 Policy HDQ7		Attention to detail
Bersted Neighbourhood Plan 2014 Policy HDQ8		Car parking

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 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).

The relevant policies of the Bersted Neighbourhood Plan are considered within 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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and 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 in an urban and predominantly residential area. It is defined as being part of the built up area boundary area and is acceptable in principle subject to normal development control criteria such as residential amenity, highway safety and parking. Paragraph 49 of the National Planning Policy Framework (NPPF) states with regard to housing that: "Housing applications should be considered in the context of the presumption in favour of sustainable development".

Bersted Neighbourhood Plan states that permission will be granted for small residential developments on infill and redevelopment sites within the Parish subject to the other policies of the plan being met.

DESIGN & CHARACTER:

Bersted Parish Council object partly on the grounds that the proposal is an overdevelopment of the site.

Arun Local Plan Policy GEN7 (ii) requires that new developments respond positively to the identified characteristics of a particular site to create developments which respect local characteristics.

Bersted Neighbourhood Plan policies ES1, HDQ2, HDQ5 and HDQ7 are all relevant. Policy ES1 states that: "New development which would have an effect on the appearance or character of the surrounding area should be of a high quality design and should contribute to local character by creating a sense of place appropriate to it's location".

Policy HDQ2 states that "Proposals for new housing must ensure that the new homes are well connected to the surrounding area and visually integrated with their surroundings." Furthermore, HDQ5 requires that new housing is of a high quality and is designed to reflect the local character.

Policy HDQ7 requires that the following items are integrated into the design at an early stage:

- bin stores and recycling facilities;
- cycle stores;
- meter boxes;
- lighting;
- flues and ventilation ducts;
- satellite dishes and telephone lines; and
- gutters and pipes.

It is also necessary to consider the guidance within the National Planning Policy Framework. Section 7 states that good design is a key aspect of sustainable development (paragraph 56), and that developments should respond to local character & history, reflect the identity of local surroundings & materials, establish a strong sense of place and be visually attractive as a result of good architecture (paragraph 58). Paragraph 60 advises that local planning authorities should promote or reinforce local distinctiveness. Paragraph 64 then confirms that planning permission should be refused for poor design that fails to improve the character or quality of an area.

In respect of overdevelopment, the proposed density is only 34 dwellings per hectare (dph) and

this compares well with surrounding houses (23 Ashurst Close - 50dph; 24 Ashurst Close - 33 dph; 385 Chichester Road - 20 dph; 14 Chalcraft Lane - 50 dph; 13 Chalcraft Lane - 20 dph). This suggests that the proposal does not seek to overdevelop the plot.

However, notwithstanding the amendments to its design, the Council does not consider that the development of this plot with a dwelling would result in a form of development that is in character with the surrounding form of development.

The plot is located between the side of 285 Chichester Road and the Chalcraft Lane road frontage. It appears as though it should form part of the garden to 285. Furthermore, the plot is extremely narrow at the northern end and then widens towards the south giving the majority of the site a triangular shape. The southern end widens out enough to accommodate a dwelling but this part is also partly behind 285 (as opposed to being strictly to the side of). The very southern part appears is then forward of the other neighbouring dwellings, 23-24 Ashurst Close.

The application site is therefore considered to be exceptionally small in useable area. Furthermore, The majority of residential properties in Chalcraft Lane traditionally laid out, set back from the street with front and rear gardens. The application proposal on the other hand would have a dwelling only 2m back from the front boundary with no rear garden and instead a garden of a broadly triangular shape extending out from the side along the existing road frontage. The northern end of the garden is considered due to the triangular shape to have limited usability.

This would introduce a form of development that would be significantly at odds with the existing spacious, open and traditional character. The appearance of the dwelling within the existing streetscene would therefore appear cramped and somewhat contrived.

It is therefore considered that the proposal would be contrary to policy GEN7 of the adopted Arun Local Plan 2003, policies ES1, HDQ2 & HDQ3 of the Bersted Neighbourhood Plan and the guidance on design in the National Planning Policy Framework.

RESIDENTIAL AMENITY:

Arun District local Plan Policy GEN7 (iv) indicates that development will be permitted if it takes into account impact on adjoining occupiers, land, use or property. None of the Bersted NDP policies refer to residential amenity issues. However, one of the 'core planning principles' of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

The dwelling has been designed so as to take account of the privacy of existing neighbouring properties and therefore there are no windows in the first floor north elevation (which could otherwise invade the privacy of 285) and only a velux window in the west elevation (facing the front of 24 Ashurst Close) above the landing which could be obscure glazed without harm to the amenity of future occupiers. The main first floor windows are in the eastern and southern elevations which look out over roads.

It is not considered that the proposed dwelling will adversely affect light reaching the front of 23/24 Ashurst Close. Although to be sited due east of these dwellings, the low height of the proposed dwelling coupled with the 17m interface will mean that sunlight will still reach the existing front windows. In respect of the relationship to 285 Chichester Road, although the

proposed dwelling is almost due south of the existing and much closer to this than to Ashurst Close, there is a 7m gap and the boundary between the dwellings is supplemented with 3m+ high fir trees. Furthermore, the proposed dwelling is not full two storeys and these factors are considered to overcome any loss of light concerns.

It is recognised that no. 285 has a window which look unscreened onto the proposed garden area. It was suggested that the applicant could erect a fence along this boundary to part block out the window but instead they have proposed to site a fence at a right angle to the window which does not prevent views of the very northern part of the garden but does preserve the privacy of the larger area of garden which might realistically be used for play/eating out etc. This is considered to be an acceptable solution.

It is therefore considered that the proposal would be in accordance with policy GEN7 of the adopted Arun Local Plan 2003 and the guidance on amenity in the National Planning Policy Framework

INTERNAL & EXTERNAL SPACE STANDARDS:

It is necessary to assess the proposal against the internal space standards as set out in the Governments new Technical Housing Standards (Nationally Described Space Standard). There is no stated requirement for a 2 storey, 1 bedroom, 2 person dwelling. The requirement for a single storey 1 bedroom 2 person dwelling is 50m² whilst that of a 2 storey, 2 bedroom, 3 person dwelling is 70m². The proposed internal space is 75m² and this exceeds the larger requirement.

Policy D DM3 of the Arun Local Plan 2011-2031 Publication Version showing Modifications sets out the Council's external space standards and despite not being an adopted policy is currently being used for development management purposes and has been subject to testing at appeal. This is supported in this instance by Bersted Neighbourhood Plan policy HDQ6 which states that "A private outdoor garden amenity space, or a shared amenity area must be provided for all new dwellings".

There are two requirements to policy D DM3. Firstly, a minimum rear garden depth of 10m. The rear garden depth serves to (a) ensure that rear gardens are usable spaces and (b) to provide for a 20m back to back distance between dwellings. This depth standard may be relaxed if both of the following situations are in existence: (a) there is no back to back arrangement (and no realistic possibility of a future back to back arrangement); and (b) where the garden is sufficiently wide so as to exceed the area requirement. The second requirement concerns the area of the private rear garden and in this case should be at least 85m².

The proposed garden area has an irregular shape but the wider more usable parts of it amount to at least 96m² and is at least 10m in depth. Therefore, the proposal is considered to comply with both of the internal and external space standards.

PARKING PROVISION & ACCESS:

Bersted Parish Council object partly on the grounds of highway safety as the access is near the junction with Chalcraft Lane.

There are no adopted development policies which cover highway safety. Instead regard should

be had to paragraph 32 of the National Planning Policy Framework which states that: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe". WSCC Highways have been consulted but raise no objection on either highway safety or highway convenience grounds. It is not therefore considered that an refusal on these grounds could be defended on appeal.

Arun Local Plan policy GEN12 refers to the need to provide sufficient off-street parking. However, the standards within the appendices to the Local Plan which it refers to have been superseded by the West Sussex (Residential) Parking Demand Calculator.

The West Sussex Parking Demand Calculator indicates a total demand for the new house of 2 spaces. This is in line with the requirement set out within policy HDQ8 of the Bested Neighbourhood Plan. The proposal provides 2 off street spaces and therefore complies with the policies on parking provision. The site has a right of way over the front driveway area of 23-24 Ashurst Close. The use of this right of way does not affect the parking provision for those two dwellings.

On this basis, it is considered that the proposal complies with the NPPF and the policies of the development plan.

DRAINAGE:

Bersted Neighbourhood Plan policy ES2 requires surface water management measures for development proposals to ensure that the risk of flooding both on-site and downstream is not significantly increased. However, this is not a high risk area such that the Council would ordinarily impose a drainage condition. Instead, drainage will be dealt with through the building regulations process. This is an appropriate solution and therefore, the proposal is considered to comply with the policy.

PAGHAM HARBOUR:

The application is accompanied by a signed Section 106 legal agreement relating to a payment of £871 towards the mitigation of the impacts of the development on the Pagham Harbour Special Protection Area.

Emerging Local Plan (Arun Local Plan 2011-2031 Publication Version showing Modifications) policy ENV DM2 states that all new residential developments within a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £1,275 per new residential unit was agreed by the Councils Cabinet on 20 July 2015. The report to Cabinet stated that:

"The access management measures identified are referred to as Strategic Access Management and Monitoring (SAMMs). As these do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, does not apply. It is common practice by many other authorities (for example Elmbridge) that contributions towards SAMMs are gathered through S106 planning obligations. This approach has also been confirmed within Counsel advice sought by the Council. As a contribution is required to make the development

acceptable in planning terms, it is therefore in compliance with the tests under Regulation 122 of the CIL Regulations (2010) as amended"

The Councils Cabinet subsequently approved a reduction in the tariff from £1,275 to £871 as of the 10th April 2017.

Paragraph 014 (Reference ID 23b-014-20160519) of the Planning Practice Guidance describes tariff style contributions. It clearly states that these consist of contributions to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area. The Council accepts that the Pagham Harbour contribution is based on a tariff. However, the contribution is required to fund strategic access management and monitoring measures (SAMMs) which are necessary to meet the requirements of European law (transposed into English law through the Conservation of Habitats and Species Regulations 2010). Essentially this requires the Council to maintain, if not improve, the existing condition of the site.

As these SAMMs do not include the allocation of specific land, they are not classified as physical infrastructure, and are not included under the definition of infrastructure within Section 216 of the Planning Act 2008, meaning that the pooling restrictions as set out under Regulation 123 of the CIL Regulations (2010) as amended, do not apply.

Therefore, it is considered that the Council is able to seek these contributions despite the guidance in PPG Paragraph 031 (Reference ID: 23b-031-20160519009). This has also been tested at appeal such as reference APP/C3810/W/16/3146804 which concerned a single dwelling in nearby Aldwick.

Furthermore, it should be noted that this policy has a basis in the current development plan in that Local Plan policy AREA13 "Sites of International Importance for Nature Conservation" which states that: "Where development is permitted, the use of conditions or planning obligations will be considered in order to secure any compensatory or mitigation measures and appropriate management that may be required."

The application site lies within the designated Zone B and accordingly it was necessary to apply this requirement. The net increase in 1 dwelling resulted in a contribution of £871 at the current rate and it is this that is secured by the signed S.106 legal agreement.

SUMMARY:

Although there is no in principle objection to residential development in this location, it is considered that the act of siting a dwelling on this unusually shaped plot of land would be detrimental to the open and spacious character of the area and as such is unacceptable in terms of the relevant development plan policies. However, the scheme is considered to be acceptable with regard to residential amenity, space standards, highway safety, parking and there is a legal agreement in place covering the financial contribution required to mitigate the impact of the dwelling on the Pagham Harbour SPA.

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), 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 applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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.

SECTION 106 DETAILS

The application is accompanied by a signed/complete Section 106 legal agreement relating to a payment of £871 towards the mitigation of the impacts of the development on the Pagham Harbour Special Protection Area.

RECOMMENDATION

REFUSE

- 1 The site by virtue of its size and shape, is considered unsuitable to accommodate a dwelling and private amenity space satisfactorily without damaging the character of this established residential area. The proposal would therefore result in an unduly cramped and unneighbourly form of development which would be detrimental to the character and amenities of the surrounding residential area, contrary to policy GEN7 of the Arun District Local Plan; policies ES1, HDQ2 & HDQ5 of the Bersted Neighbourhood Plan; the National Planning Policy Framework; and policy DDM1 of the Arun Local Plan 2011-2031 Publication Version showing Modifications.
- 2 **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 with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.