

Recommendation Report for Planning Permission

REF NO: BE/84/24/PL

LOCATION: New Era House 8 Oldlands Way  
Bersted  
PO22 9NQ

PROPOSAL: Demolition of the existing single storey sprinkler pump house and erection of a new single storey sprinkler pump house. This application is in CIL zone 4 (zero rated) as other development.

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above.
SITE AREA	4.56ha.
BOUNDARY TREATMENT	The site covers a large area. The area of relevance to the proposal is bordered by a tall metal boundary fence to the north boundary, and met by planting and a railway line to the southeast, and the remainder of the industrial building to the southwest.
SITE CHARACTERISTICS	The site features a large industrial warehouse of brick and metal sheeting. It is of a typical commercial/industrial character.
CHARACTER OF LOCALITY	The site lies within the wider commercial and industrial estate of Bersted. It is surrounded by similar design units of varying scales. To the east side of the site is the mainline railway with open land beyond.

**REPRESENTATIONS**

Bersted Parish Council - No objection.

No representations from nearby occupiers.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Noted.

**CONSULTATIONS**

**CONSULTATION RESPONSES RECEIVED:**

Network Rail - set out certain requirements for working in proximity to the railway.

Environment Agency - No objection:

- The neighbouring uses as industrial land and the presence of a railway presents a medium risk of

contamination that could be mobilised during construction to pollute controlled waters in the area which are particularly sensitive, given the site is located on a principal aquifer and near to the Lidsey Rife.

- The proposed development will be acceptable if a precautionary contamination planning condition is included, requiring the submission of a remediation strategy should contamination be found. This should be carried out by a competent person in line with paragraph 189 of the NPPF.

- Without this condition we would object to the proposal in line with paragraph 180 of the NPPF.

- Further advice pertaining to waste on and off site, and suggesting flood resilience measures are also given.

## COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

### POLICY CONTEXT

Designation applicable to site:

Built-up Area Boundary.

Future Flood Zone 3a (by 2111).

### DEVELOPMENT PLAN POLICIES

#### Arun Local Plan 2011 - 2031:

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
EMPDM1	EMP DM1 Employment Land: Development Management
QESP1	QE SP1 Quality of the Environment
QEDM4	QE DM4 Contaminated Land
WDM2	W DM2 Flood Risk

#### Bersted Neighbourhood Plan 2014 Policy ES1

Bersted Neighbourhood Plan 2014 Policy EE1

Design of new development

Business expansion

### 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 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

### 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 complies with relevant Development Plan policies in that the proposed building would not compromise the character or visual amenities of the area, whilst upgrading an existing employment site.

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

There are no other material considerations to be weighed in the balance with the Development Plan.

## CONCLUSIONS

### PRINCIPLE

The site is located within the Built-up Area Boundary and is an existing employment site.

### DESIGN & VISUAL AMENITY

The proposed pump house building is of a modest scale that is comparable to that of the existing pump house in the same location. The proposed features goosewing grey Glass Reinforced Plastic (GRP) walls and a flat roof design, increasing the footprint over that of the existing building by approx. 8sqm. The proposed is of different materials to the existing, but of a visual appearance that would remain suitably integrated with the character of the area and would not unduly compromise the visual amenities of the area.

The proposal is in accordance with Policies D SP1 & D DM1 of the Arun Local Plan (ALP) and Policy ES1 of the (Bersted Neighbourhood Plan (BENP)).

### EMPLOYMENT SITE

The proposal is required to upgrade the existing sprinkler pump house system on site and bring the facility up to modern standards. It is, therefore, an upgrade of the existing systems on site and would support the continued use of an existing employment site in accordance with Policy EMP DM1 of the ALP and Policy EE1 of the BENP.

### POLLUTION

The proposal site is of an industrial use and there is a railway line immediately adjacent. The site poses a medium risk of on-site contamination with potential for this to be mobilised during the development, which, as identified by the Environment Agency, could result in contamination reaching local watercourses and/or the principal aquifer in the area. As such, a precautionary contamination condition has been attached to this decision, with a clause that if any contamination is discovered, a remediation strategy is required to be reviewed by the Local Planning Authority.

Subject to this condition, the proposal is in accordance with Policies QE SP1 & QE DM4 of the ALP.

### FLOOD RISK

The proposed pump house is a replacement of an existing pump house. The site is not within any present-day Flood Zones but is predicted to be within Flood Risk Zone 3a by 2111. On the basis that the proposal is the replacement of an existing facility with no increase in flood risk vulnerability, there is no

increased safety risk. The proposal is not predicted to be within such a Flood Zone until 2111, and it is expected that the lifetime of the pump house will lapse prior to being within such a Flood Zone.

The proposal is in accordance with Policy W DM2 of the ALP.

## **SUMMARY**

The proposal is in accordance with relevant Development Plan policies and as such, it is recommended for approval subject to the following conditions and informatives.

### **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.

### **CIL DETAILS**

This application is not CIL liable.

### **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 001A.

- Block Plan 002A.
- Proposed Elevations and Floor Plan, 007901.004 A.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D SP1, D DM1 & EMP DM1.

3 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a remediation strategy detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reasons: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, and to prevent deterioration of a water quality element to a lower status class in Lidsey Rife (GB107041012010) in line with paragraph 180 of the NPPF and Arun Local Plan policies QE SP1 & QE DM4.

4 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission is de-minimis as the development does not impact an onsite priority habitat and the development impacts less than 25 square metres of onsite habitat that has a biodiversity value greater than zero and less than then 5 metres in length of onsite linear habitat.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

5 INFORMATIVE: Due to the close proximity of the proposed works to Network Rail's land and the operational railway, Network Rail strongly recommends the applicant / developer ensure that their proposal, both during construction and after completion does not:

- Encroach onto Network Rail land
- Affect the safety, operation or integrity of the company's railway and its infrastructure
- Undermine its support zone
- Damage the company's infrastructure
- Place additional load on cuttings
- Adversely affect any railway land or structure
- Over-sail or encroach upon the air-space of any Network Rail land
- Cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future.

Should you wish to discuss any of the above, please contact the Asset Protection team via AssetProtectionLondonSouthEast@NetworkRail.co.uk.

6 INFORMATIVE: The EA strongly recommend the use of flood resistance and resilience

REPORT\_1011(ODB)

measures. Physical barriers raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage. To find out which measures will be effective for this development, please contact your building control department. If you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the online planning practice guidance (<https://www.gov.uk/government/collections/planning-practice-guidance>). Further guidance on flood resistance and resilience measures can also be found online.

7 INFORMATIVE: The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works is waste or has ceased to be waste. Under the Code of Practice:

- Excavated materials that are recovered via a treatment operation can be reused on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution.
- Treated materials can be transferred between sites as part of a hub and cluster project some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. The EA recommend that developers should refer to:

- The position statement on the Definition of Waste: Development Industry Code of Practice; and
- The waste management page on GOV.UK.

8 INFORMATIVE: Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991.
- Hazardous Waste (England and Wales) Regulations 2005.
- Environmental Permitting (England and Wales) Regulations 2016; and
- The Waste (England and Wales) Regulations 2011.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If you receive (or reject) any hazardous waste, you must send a report to the Environment Agency. These are known as 'returns'. If you dispose of hazardous waste at the premises where it's produced you may also need to send returns. You should follow the "Hazardous waste: consignee returns guidance" Please do not hesitate to contact the EA should you have any queries.

9 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). 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.