

Recommendation Report for Planning Permission**REF NO:** BN/16/13/**LOCATION:** Meadow View
Highground Lane
Barnham**PROPOSAL:** Change of use from agricultural land to residential land with the erection of a garden room. Departure from the Development Plan.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	The change of use of agricultural land to garden with retention of garden room which measures approximately 12.9m x 7.8m x 2.8m in height and is timber clad.
SITE AREA	Approximately 0.778 hectare.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Site is well screened by hedging/tree screening over 3m.
SITE CHARACTERISTICS	Chalet style detached property with conservatory on rear, detached garage to front. Children's play equipment and garden room to rear (the subject of this application). The property has rendered walls with a brown tiled roof. Private access road to site also serves properties The Cottage, Highground Orchard Office and holiday cottages.
CHARACTER OF LOCALITY	Rural location with open fields to the south. Predominantly detached properties of various styles and designs.

RELEVANT SITE HISTORY

BN/4/00/CLE	Application for a Certificate of Lawfulness for an existing use - residential bungalow with separate toilet and bathroom.	Approve 07-07-2000
BN/38/00/	Replacement bungalow with garage.	ApproveConditionally 03-04-2001
BN/28/05/	Shed (Departure from the development plan)	Refused 21-11-2005

BN/4/07/	Change of use of land from agricultural to residential. Departure from the Development Plan	Refused 15-03-2007
BN/5/07/	Construction of stables.	Refused 03-04-2007 Appeal: Dismissed 04 03 2008
BN/12/07/	Extend bungalow to the south by 4.9m, addition of 3 No dormers to the north, roof of north east corner changed from hip to gable, new covered porch to entrance, revised position of door to main entrance and utility and 3 solar panels.	ApproveConditionally 11-05-2007

REPRESENTATIONS**Representations received:**

Barnham Parish Council

Objection

The Parish Council unanimously opposes the planning application for the following reasons: The planned location of the proposed "garden room" is unsuitable, being some distance from the Meadow View dwelling and very close to the residence of the applicant's neighbour.

Council is concerned about the sheer size of the proposed outbuilding.

Council has a more general concern that land usage around Meadow View and its neighbours in Highground Lane, which a few years ago was predominantly agricultural, is gradually changing to "domestic", with substantial home extensions and the erection of holiday chalets. The Parish Council urges the Planning Authority to resist this trend.

Should the application be allowed, despite Parish Council objections, we urge Arun DC to impose a stringent, irreversible permanent condition that would prevent the proposed "garden room" from ever being adapted for any kind of residential occupation.

Comments on Representations received:

Objection comments noted

If approved, a restrictive condition will be imposed relating to further curtilage buildings and a condition imposed relating to the building only being used for ancillary use as not as a separate unit of accommodation.

CONSULTATIONS

Southern Water Planning

Consultations responses received:

Southern Water

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

Specify the responsibilities of each party for the implementation of the SUDS scheme.

Specify a timetable for implementation.

Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties serves, and potential means of access before any further works commence on site.

Comments on Consultation responses:

Comments noted

If approved, an informative will be imposed to this affect.

POLICY CONTEXT

Designation applicable to site:

Outside Built Up Area Boundary

Area of Special Control for Advertisements

No Public Sewer

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN3](#)
[GEN7](#)

Protection of the Countryside
The Form of New Development

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

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.

The Development Plan consists of the Arun District Local Plan 2003.

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.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making

process.

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 involve residential development encroaching outside of the defined residential curtilage of the site which lies outside the built up area boundary on agricultural land which GEN3 of the Arun District Local Plan seeks to safeguard.

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 situated outside the built up area boundary within a predominantly rural location. The site has an extensive planning history which has evolved around agriculture and specifically Orchard Cottage Nursery.

The retrospective application is for the change of use from agricultural land to residential with the erection of a garden room. The original bungalow with separate toilet and bathroom now known as Meadow View was secured through a Certificate of Lawfulness (BN/4/00/CLE) as it was part of the nursery site known as Orchard Cottage. It was secured on the basis that it was used in connection with the nursery.

A replacement dwelling and garage was submitted under planning application BN/38/00 and approved with a defined residential curtilage. A rear extension to this bungalow was submitted under BN/54/06 and refused on the basis that the rear one and a half storey extension would encroach over the domestic curtilage as defined under BN/38/00. A subsequent application for an extension BN/12/07 was submitted and this was approved as it did not encroach over the domestic curtilage.

Application BN/4/07 was submitted for the proposed change of use of approximately 737 square metres of agricultural land to extend the residential curtilage. The design statement submitted with the application stated that the rear portion of the site was to be used for the stabling of horses and because the existing residential curtilage was small concerns were raised regarding the possible odours emanating from the stables into the rear windows of the property. This application was refused on the basis that it was outside the built up area in a rural location and the use was unrelated to the essential rural activity.

A subsequent application BN/5/07 was submitted for the construction of stables to provide a comfortable retirement for two to three horses on the land to the rear of Meadow View which was refused by the Council on the basis that the proposal because of its siting and scale with a footprint which is only marginally smaller than that of 'Meadow View', would adversely affect the

visual amenities of the locality in that it would be obtrusive in the landscape and prominent from surrounding viewpoints. Further, the site is not well related to the existing bridleway network and in the absence of compelling circumstances to justify overriding these issues. The applicant appealed against the Council's refusal and it was dismissed on appeal. The Inspector stated that the development due to its size and design and the long term harm it would cause once the need had ceased was detrimental to the character and appearance of the area.

At the time of the officer's visit the area of land in question also had children's play equipment which had been erected in the south west corner outside of the residential curtilage as well as the garden room. The land to the rear is laid to grass with a few trees and the garden room which is single storey is cedar clad and is positioned in the south west corner of the site. It is well screened by hedging/tree screening and is not readily visible to the neighbouring properties to the east and west. The statement submitted with the application states that the land had been used as garden by previous owners and the applicant has advised that the garden room had been erected on an existing concrete base. However, the siting of the garden room is outside of the defined residential curtilage and is not related to agriculture or horticultural purposes.

The site being outside of the defined built up area boundary and in conflict with Local Plan Policy GEN3 which states that, 'the countryside will be safeguarded for its own sake'. Proposals for development (which includes change of use) under such land designation will only be permitted if the proposal can demonstrate that it is necessary to meet the needs of, or is consistent with, the established policies for the protection of the countryside.

In this instance there are no material considerations which would warrant a departure being made from the provision of the development plan which seeks to protect the countryside.

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

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 (right to respect for 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 a neutral impact has 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 site lies in a rural area and the change of use to residential curtilage with the erection of a garden room is detrimental to the character of the area and unrelated to an essential rural activity which is contrary to policies GEN3, GEN7 of the Arun District Local Plan and the National Planning Policy Framework.
- 2 **INFORMATIVE:** Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason for refusal.