

Recommendation Report for Planning Permission

REF NO: BN/66/21/PL

LOCATION: Eastmere Stables
Eastergate Lane
Eastergate
PO20 3SJ

PROPOSAL: 1 No. dwelling (not restricted by equestrian use). This application is a Departure from the Development Plan & the site is in CIL Zone 3 (Zero Rated) as no increase in floor area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This proposal is for a removal of condition 7, limiting occupation to equestrian workers related to the adjacent stables, imposed on EG/102/16/PL. As the stables no longer exist it has to be considered if the condition still serves a useful planning purpose.
	The proposal does not propose any visual alterations to the host dwelling.
SITE AREA	1611.00 square metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	6 dwellings per hectare.
TOPOGRAPHY	Predominantly flat but rises up to the north western corner of the whole field.
BOUNDARY TREATMENT	The site is surrounded by approximately 2m high closeboard feathered timber fence.
SITE CHARACTERISTICS	The site is on the northern side of Eastergate Lane and comprises a two storey detached dwelling utilising brickwork and tiled roof slopes with a large half hipped roof, sitting within a spacious plot.
CHARACTER OF LOCALITY	The site is in a rural location with sporadic housing along Eastergate Lane. Farming and equestrian uses are in the vicinity. There is a dwelling opposite but this is some distance away (29m back from Eastergate Lane). Eastmere House sits to the east of the site and a dwelling for permanent agricultural workers, subject to this application, to its immediate west. There is a horticultural nursery to the east.

RELEVANT SITE HISTORY

BN/7/21/PL	Change of use of existing equestrian yard to storage (Use Class B8). This site is in CIL Zone 3 (Zero Rated)	ApproveConditionally 08-04-21
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as other development & is a Departure from the Development Plan.

EG/102/16/PL	1No. Dwelling for permanent agricultural worker following temporary approval EG/62/15/PL	ApproveConditionally 18-04-17
EG/62/15/PL	Retrospective temporary permission for an agricultural workers dwelling.	ApproveConditionally 20-01-16

Noted.

REPRESENTATIONS

Barnham & Eastergate Parish Council: No objection.

No letters of objection received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/A

POLICY CONTEXT

Designation applicable to site:

Outside the Built up Area Boundary;
Lidsey Treatment Area;
Flood Zone 1; and
Advert Control Area.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation

ENVDM5	ENV DM5 Development and biodiversity
EQU DM1	EQU DM1 Equine Development
HDM3	H DM3 Agricultural forestry and horticultural Rural dwellings
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans 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.

Barnham and Eastergate has a made Neighbourhood Plan and the relevant policies are considered in 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 conflict with the Development Plan policies in that has the potential to result in residential dwelling in the countryside.

OTHER MATERIAL CONSIDERATIONS

Notwithstanding the conflict with the Development Plan, it is material that as according to the 6 condition tests (para 56 of the NPPF & relevant paragraph of the PPG, the conditions are either not appropriate or no longer relevant/necessary and should therefore be removed.

Paragraph 56 of the NPPF (2021) states that: "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted,

enforceable, precise and reasonable in all other respects".

CONCLUSIONS

KEY ISSUES

The key issues are principle, loss of existing equine business, design and visual amenity, residential amenity, highways/traffic.

PRINCIPLE:

The site is outside the built up area boundary in countryside where new development is generally unacceptable. Local Plan Policy C SP1 seeks to protect the character and amenity of countryside and sets out a limited range of developments which may be permitted in the countryside including essential facilities for agriculture and forestry, quiet informal recreation or green infrastructure.

Policy C SP1 of the Local Plan in criterion f. states that development in the countryside will be permitted where it is in accordance with other policies in the Plan which refer to specific use or type of development. The original permission was for a dwelling in countryside for occupation by a rural worker connected to an existing rural business in respect of Arun Local Plan policy C SP1(a) for the operational needs.

The National Planning Policy Framework (NPPF) is a material consideration that carries significant weight. The presumption in favour of sustainable development as set out in the NPPF paragraph 11 d) ii applies. This lends weight to allowing the proposal unless it were found that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

EQUINE DEVELOPMENT:

Policy EQU DM1 par 11.4.2 affirms that should the equestrian use cease the land must be left capable of being restored to a productive green environment.

Policy ES14 of the Barnham and Eastergrate Neighbourhood Development Plan (BENDP) states agricultural land is important to safeguard future farm production and equestrian activity, and in turn, future employment in the locality, and to maintain the rural aspect of the parish and policy EE8 carries on that redevelopment or change of use of land or buildings in equine use will not be supported, unless it can be shown the existing use is no longer economically viable. In the Design and Access Statement (DAS) for the previous application for change of use of Estmere Stables, the applicant states that over the last couple of years, the stables have been underutilised.

The proposal would not satisfy the requirements of ACD policy EQU DM1.

DESIGN & CHARACTER:

Policy D SP1 "Design" states: "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.

Policy D DM1 of the Arun Local Plan 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.";

The dwelling in question have a design which is an appropriate in this rural setting. Materials include brick, timber weatherboarding and clay tiles and these do not detract from those of the other existing buildings along the lane. The site itself benefits from a 2-3m hedge along the lane. The appearance of the dwelling remains unchanged.

RESIDENTIAL AMENITY:

The site of the dwelling is such that by virtue of distance, no nearby residential properties will be affected by either light or overlooking. The position remains as per the current situation.

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). The requirement for a 2 storey, 3 bedroom property with bedrooms large enough to accommodate 6 people is 102m² and the dwelling exceeds this and complies with the requirements.

Arun District Council has no size standards in respect of private gardens although section H.04 of the Arun Design Guide SPD advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. It states rear gardens should have a minimum depth of 10.5m and buildings should be set back by 2m from the plot boundary to mark defensible space. The garden has not been fully measured but clearly exceeds the standards.

HIGHWAYS & PARKING:

The proposal uses an existing access and is not considered to intensify the use of this to such an extent as to warrant any assessment of highway safety. The proposal site includes a double car port as well as a large area of hardstanding. There is therefore no highway objection.

OTHER MATERIAL CONSIDERATION:

This application is effectively for the removal of condition 7 attached to the permission under reference EG/102/16/PL:

'The residential use hereby permitted of the proposed dwelling shall only allow for occupation as one single unit of accommodation by a person whose main employment is the oversight or day to day running of the equestrian business at Eastmere Stables and the dependents of such a person residing with him or her.

Reason: The site lies in an area where permission for development unrelated to the essential needs of agriculture would not normally be granted in accordance with policies GEN2 & GEN3 of the Arun District Local Plan and paragraph 55 of the National Planning Policy Framework.'

The building was permitted in order to provide accommodation to serve the equestrian use of the site, however the former equestrian yard with existing buildings on site was recently converted under reference BN/7/21/PL to internal storage units, and the former sand school was converted to an open area of outdoor storage. As such there is officially no longer any equestrian use on the site.

No physical changes are proposed to building. The dwelling was on the site approximately for 3-4 years and was approved (conditioned) as the equestrian workers dwelling which related to the adjacent stables therefore it is not considered that the continuation of residential use of this dwelling would have a long

lasting impact on the character of the countryside.

However, as mentioned above, this condition is no longer applicable due to the fact that the equestrian business which the building in question was related to does not exist (BN/7/21/PL) and therefore condition 7 ceased to be necessary and enforceable.

Paragraph 56 of the NPPF (2021) states that: "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

The applicant considers that the condition in question no longer meet the tests as set out in paragraph 56 and should therefore be removed. The applicants arguments are as follows:

'Condition 7 of EG/102/16/PL cannot be considered to meet tests 1, 3 and 4 factors following the approval of BN/7/21/PL. When considering the above tests, the condition is no longer considered to meet:

- Test 1 - The condition is not considered to meet test 1, in that it is no longer necessary for the dwelling to be required to support the neighbouring equestrian use, which has ceased.
- Test 3 - There is no longer an equestrian use within the site, due to approved permission BN/7/21/PL. Therefore, the condition is no longer relevant to the development permitted.
- Test 4 - The condition is not enforceable, as the condition is no longer needed, so there is nothing to enforce. To restrict the use of the dwelling to require habitation by an equestrian worker associated with Eastmere Stables, where there is no longer an equestrian use, will only result in an empty dwelling.

ASSESSMENT OF CONDITION TESTS:

It is agreed the condition is not necessary since the equestrian business which condition relates to ceased: approved application BN/7/21/PL for change of use of existing equestrian yard to storage and consequently ceased the employment for day to day running of the equestrian business at Eastmere Stables. Therefore the condition is no longer relevant and for the above reasons not enforceable.

Paragraph 80 (c) of the NPPF encourages the development would re-use redundant or disused buildings and enhance its immediate setting and paragraph 85 of the NPPF stresses that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

CONCLUSION:

The proposal would result in an unrestricted open market dwelling in the countryside where according to Policy C SP1 of the Local Plan such a development will be not permitted.

Whilst the application is not directly asking for the removal of Condition 7 that is the effect of the proposed approval. Condition 7 cannot be considered to meet the tests for conditions set out in Section 55 of the National Planning Policy Framework. The PPG is clear that in deciding an application to remove conditions, the local planning authority must only consider the disputed condition and not reconsider the wider planning situation.

On this basis, it is considered the non-compliance with the tests is capable of allowing for a decision to be taken other than in accordance with the Development Plan and this outweighs any conflicts with development plan policy.

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. The site is in CIL Zone 3 (Zero Rated) as no increase in floor area.

RECOMMENDATION

APPROVE CONDITIONALLY

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

Location Plan;
Ground floor Plan;
First Floor Plan;
Section, submitted on 03/06/21.

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.

- 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 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.