

Recommendation Report for Planning Permission

REF NO: BN/75/19/PL

LOCATION: Land adjacent to Cherry Trees
Lake Lane
Barnham
PO22 0AD

PROPOSAL: 1 No. dwelling & associated works.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

1 No. dwelling & associated works. The proposed 3 bed dwelling would be located in the garden area of Cherry Trees between Cherry trees and a dwelling to the North (Streatley). The footprint of the proposed dwelling would be 48 sqm and the floor area would be 84 sqm. The proposed dwelling would be aligned with the neighbouring properties of Cherry Trees and Streatley, set 15m from the highway with access via the existing drive shared with Cherry Trees. A new boundary is proposed between the new dwelling and the host property Cherry Trees which would be 1.8m from the host dwelling and 1m from the proposed dwelling. The side elevation of the proposed would be 0.8m from the North-Eastern Boundary. A front facing dormer window is proposed for a 1st floor bedroom and proposed materials would be of brick for the walls and tile for the roof.

A small cycle storage shed is proposed for the rear garden. A new laurel hedge is proposed behind the existing front boundary wall. Two on-site parking spaces are proposed.

An amended plan was received on 14th January 2020 which confirms that existing trees on site will be kept along with clarification of the existing boundary treatments and vegetation.

SITE AREA

The site has an area of 0.021 Hectares or 208 sqm

RESIDENTIAL DEVELOPMENT DENSITY (NET)

48 dwellings per hectare

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Dwarf flint wall with brick piers approximately 1m-1.5m in height and a bridle gate to the front, approximately 1.5m high panel timber fence to the north-east.

SITE CHARACTERISTICS

The proposal site is located on the eastern side of Lake Lane

and contains Cherry Trees, a semi-detached two storey white rendered dwelling in an Arts and Craft style set back from the road with a large garden to three sides of the house. On the North-Eastern side of Cherry Trees is an existing garage structure (to be demolished) and a fence between the garden and neighbouring dwelling (Streatley) built in the late 1960's with a flat roof attached garage adjacent to the boundary. At the front of the dwelling is a parking area with a low wall adjacent to the highway. To the East are houses along Haliford Drive, constructed as an infill development in the 1970's. There are no trees within the application site affected by the proposal.

CHARACTER OF LOCALITY

The surrounding area is predominantly residential with the surrounding housing mostly two-storey detached and semi-detached houses set within varied plot sizes.

RELEVANT SITE HISTORY

BN/56/19/CLP

Lawful development certificate for a proposed single storey rear extension.

PP Not Required
06-09-19

No relevant planning history

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Barnham & Eastergate Parish Council

Barnham & Eastergate Parish Council- No objections

2 Letters of objection received.

The main summarised points of objections are:

- The proposed density is out of character with the surrounding area
- The proposed would result in over-development of the site
- The proposed rear garden is only 6m
- The proposal would result in a lack of privacy and overlooking of neighbours
- Additional car exiting onto Lake lane would be dangerous

COMMENTS ON REPRESENTATIONS RECEIVED:

The majority of comments will be addressed in the conclusion section of the report. However, only material planning considerations will be addressed.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

Southern Water Planning
Parks and Landscapes
Arboriculturist
WSCC Strategic Planning
Environment Agency

CONSULTATION RESPONSES RECEIVED:

WSCC Highways: No objections subject to the imposition of a condition should permission be granted

Drainage Engineer: Require additional information be submitted regarding site infiltration and groundwater monitoring to establish if infiltration is feasible.

Landscape Officer: Due to the proximity of the proposed dwelling to the neighbouring properties and the inability to provide a suitable screening buffer the Landscape Officer does not recommend this application for approval.

Tree Officer: No objections on arboricultural grounds.

Southern Water: No objections

COMMENTS ON CONSULTATION RESPONSES:

Consultee comments will be addressed by conditions

POLICY CONTEXT

Designation applicable to site:
Built up area boundary

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water
QESP1	QE SP1 Quality of the Environment

[Barnham & Eastergate Neighbourhood Plan 2014](#) Quality of design

[POLICY ES5](#)

Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES11 Energy efficiency of new development

Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES6 Contribution to local character

Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES8 Buildings should be designed to reflect the three-dimensional

Barnham & Eastergate Neighbourhood Plan 2014 POLICY H2	qualities of traditional buildings Windfall sites
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H4	Integration of new housing into surroundings
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H6	Attention to detail

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 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.

The relevant policies of the Barnham & Eastergate Neighbourhood Plan (BENP) have been taken into account: ES1, ES6, ES8, ES11, H2, H4, H6.

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 the dwelling by reason of its position and design would result in demonstrable harm through adverse overlooking to the dwelling to the rear

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**

Arun District Council are unable to demonstrate a 5 year Housing Land Supply at the time of this assessment which therefore triggers the presumption in favour of sustainable development under footnote 7 and paragraph 11(d). Applying the presumption in favour of sustainable development for decision taking means granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance

provides a clear reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

The development would provide housing in a sustainable location that would provide access to jobs which would support the local economy (economic). The development would provide a range of homes that could meet the needs of present and future generations (social). The development would make an effective use of the land on a previously developed site (environmental). However, paragraph 11(d)(ii) makes clear that decisions should be taken in accordance with the policies in the Framework unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. A full assessment of all matters and their significance are outlined in the below assessment.

The development is situated within the built up area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policies considered are D DM1 and D DM4 of the Arun Local Plan.

Policy SD SP1 of the Arun Local Plan states: "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)."

Paragraph 118(d) of the NPPF states: "Planning policies and decisions should: promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing".

Barnham & Eastergate has a 'made' Neighbourhood Plan (2014-29) with policy ES5 of relevance to the application.

DESIGN AND VISUAL AMENITY

Arun Local Plan policy D DM1 lists a series of 15 factors that development must comply with - these include character, impact and public realm.

Barnham Neighbourhood Plan Policies ES5: Quality of Design- all new development should be of a high quality design, and will be expected to conform to the forthcoming Barnham and Eastergate Design Guide. New development should be designed to respond to the specific character of the site and its local surroundings and to create a sense of place.

It is also necessary to consider the guidance within the NPPF. Section 12 states that high quality buildings and places are fundamental to the planning process. Paragraph 127 sets out 5 design criteria against which development proposals will be assessed including the need to be visually attractive and sympathetic to local character.

In terms of density, D DM1 requires that housing makes efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. The policy requires the scale of development to keep within the general confines of the overall character of a locality.

The size of the site is small but there are other similarly sized sites in the surrounding area. The dwelling would be positioned in an existing garden area between Cherry Trees and Deep End. A distance of 0.8m is kept to the north-eastern boundary and a distance of 1m is kept to the south-eastern boundary which allows space for bin and bike storage at rear. This space is minimal but again not uncommon in the nearby area. From a streetscene perspective the proposed would have a similar width, height and roof form as some other nearby dwellings. As a result the development would be in keeping with the general

pattern and scale of development in the locality.

Having regard to the existing character and layout of the area, it is considered that the proposal would have an acceptable impact on the established layout and pattern of development sufficiently integrating with its surroundings and the character of the street scene. The proposals would therefore comply with policies D DM1 and D SP1 of the Arun Local Plan and policy ES5 of the Barnham Neighbourhood Plan which requires development of good design, to make efficient use of land, but in the same way respond to the character of the area.

RESIDENTIAL AMENITY

Arun Local Plan policy D DM1 requires the LPA to have regard to certain aspects when considering new development including: (3) Impact - "Have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance."

None of the Barnham Neighbourhood Plan policies specifically refer to residential amenity issues. However, one of the 'core planning principles' of the NPPF is to always seek to secure a high standard of amenity for all existing and future users (paragraph 127).

QE SP1 of the Arun District Local Plan states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District."

The front facing dormer window in the proposed dwelling would face onto Lake Lane and the dwelling opposite, 'Timbers', where privacy would not be significantly affected due to the distance involved. Two side facing windows are proposed for the south-eastern elevation, one would be for a 1st floor landing area and the other would be for a ground floor bathroom. This ground floor bathroom window would be obscure glazed by condition if approval was granted and the landing area is not a habitable room thereby limiting any potential overlooking of Cherry Trees. One window is proposed for the north-eastern elevation and this would be for a bathroom window which would also be obscure glazed by condition, if permission was granted.

In terms of any other overlooking the proposal would be approx. 10m from its nearest neighbour to the rear No. 1 'The Heathers'. This distance is not sufficient to prevent overlooking even with the existing boundary conditions at rear. A distance of approx. 21m is encouraged between proposed rear elevations and neighbours at the rear in the draft Arun Design Guide.

Due to the distances and angles involved it is not felt any other neighbour would be significantly affected by the proposal.

Accordingly the proposal is not considered to comply with QE SP1 and DDM1 of the Arun District Local Plan & Section 12 of the NPPF 2019.

HIGHWAYS & PARKING

The applicant has demonstrated a parking provision of 2 spaces for the proposed property. This is in accordance with ADC parking demand calculator for a dwelling of this size and location. Cycle storage has been provided in the rear garden area. Highways have been consulted and have no objections to the proposal. The proposal is therefore acceptable in terms of highways.

CONCLUSION

The site is a brownfield site and satisfies the principle of development but due to the small garden and

the proximity of the property to the rear overlooking have a detrimental impact on neighbouring dwellings.

Given the Council's current 5 year Housing Land Supply position the presumption in favour of sustainable development is triggered under paragraph 11(d) of the National Planning Policy Framework. Paragraph 11(d)(ii) of the NPPF makes clear that permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'. In this instance the development has been assessed against the policies in the Framework taken as a whole and it has been demonstrated that the adverse impacts would significantly and demonstrably outweigh the benefits.

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.

RECOMMENDATION

- 1 The dwelling by reason of its design and proximity to the dwelling to the rear would cause demonstrable harm by reason of direct overlooking of neighbouring properties to the rear to the detriment of the amenities of the occupants of this property in conflict 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 identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.