

Recommendation Report for Planning Permission

REF NO: BN/8/22/PL

LOCATION: Land to South and West (Rear) of Birchwood House
Church Lane
Barnham
PO22 0DB

PROPOSAL: Retention of existing site entrance (resubmission following BN/97/21/PL. This site is in CIL Zone 3 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Retrospective permission for the creation of a vehicular access. The access consists of angled timber post and rail fencing with wire on the bottom section, timber double gates and a gravel surface. It provides access to land to the side and rear of Birchwood House. Recent imagery (Google Street View - Apr 2019) indicates the area was overgrown and consisted of trees, scrub and a section of brick and flint walling, a continuation of that in front of Birchwood House.
SITE CHARACTERISTICS	Land fronting Church Lane (to the south-west side of Birchwood House and its curtilage) where the new access entrance has been created, and land to the side and rear of Birchwood House and its curtilage. A 2m high close board fence panel has been erected on the boundary between the site and Birchwood House. This proposal relates only to the new access.
CHARACTER OF LOCALITY	The area has an edge of village, rural character, being on the edge of Barnham village, on a country lane with a scattering of dwellings.

RELEVANT SITE HISTORY

BN/97/21/PL	Retention of existing site entrance (resubmission following BN/110/20/PL). This site is in CIL Zone 3 (Zero Rated) as other development.	Refused 06-09-21
BN/110/20/PL	Reinstatement of an existing site entrance. This site is in CIL Zone 3 (Zero Rated) as other development.	Withdrawn 23-11-20

The reason of refusal of a recent retrospective application for the retention of a site entrance:

'Due to a lack of information, in particular the lack of Visibility Splay Plan and Speed Survey, the application currently fails to demonstrate that the new site access would have an acceptable impact on the operation and safety of the highways network.'

A retrospective application in 2020 for the access (BN/110/20/PL) was withdrawn, on the basis of a lack of information regarding land ownership/inaccurate site location plan and pre-existing and existing site access plans and a failure to demonstrate acceptable highways impacts.

REPRESENTATIONS

Barnham & Eastergate Parish Council: Objection.

- The previous concerns and issues that led to the refusal of the previous application have not been satisfactorily resolved and the Committee wishes their previous objection has been resubmitted:

- As per WSCC Highways comments, no clear evidence has been provided of a previous access being there in the recent past.

- Stretch of ancient flint wall removed to create wider entrance. Wish to see this wall re-instated.

- Were the application for a site access would want a condition imposed that the access road can only be used for the servicing of the keeping of animals and no further development would be allowed.

- It was noted from the WSCC Highways report that the application provided no clear evidence of a previous access in the recent past nor had they received an application for the current works to have been undertaken.

- Photographs sourced from Google Maps were referenced as evidence that the new wide entrance replaced a narrower gate and stretch of old flint wall.

- Destruction cannot be tolerated as it is detrimental to the fabric and character of the villages.

- An enforcement notice should be served requiring the applicant to close the access and re-instate the flint walls.

2 letters of objection received:

- This land was never an access and should never be one. An existing flint wall was removed.

- Church Lane is for the use of residents and associated traffic; it is used extensively by the wider community for horse riding, cycling, walking and dog walking.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. In respect of further development, only the site access/entrance treatment are being applied for under this current application, not an access road or any further development to the land to the side/rear of Birchwood House. The application must be assessed on the basis of what has been applied for. Any future application for development would be assessed on its own merits and impacts.

In respect of the brick and flint boundary wall, it is acknowledged that a considerable portion of walling has been removed to facilitate the creation of the access. This has affected the appearance of the area in which the flint walls are typical feature of Church Lane, however, this part of Church Lane is not in the Barnham Church Lane Conservation Area and there are not any policies in the Arun Local Plan or Barnham & Eastergate Neighbourhood Development Plan which would protect them.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

DRAINAGE ENGINEERS: Due to the scale and type of application we have no conditions to request. If

any impermeable surfaces are to be introduced on the site then please re consult us.

WSCC Highways: Given the latest documents submitted, the Local Highways Authority (LHA) would consider the application difficult to resist citing highway safety reasons subject to informative note.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Outside Built-up Area Boundary

Countryside

Lidsey Wastewater Treatment Works Catchment Area

TPO area and FZ 2 & 3 to the western area of the site

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ENVDM4	ENV DM4 Protection of trees
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan, 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.

At Full Council meeting of 9th March 2022, Arun District Council resolved to 'make' the Barnham and Eastergate Neighbourhood Development Plan 2019-2031 (BENDP). Relevant policies in the Barnham and Eastergate Neighbourhood Development Plan 2019-2031 have been taken into account in the determination of this application.

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 comply with relevant Development Plan policies in that sufficient information has been provided to demonstrate acceptable highways safety impacts and the proposed development would not have an unacceptable impact on the surrounding environment.

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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES:

The key issues in the determination of this application are as follows:

- Visual impacts
- Highways impacts
- Drainage impacts
- Lack of clear plans and drawings and land ownership issues

VISUAL IMPACTS:

Policy D SP1 of the Arun Local Plan (ALP) states development should reflect the characteristics of the site and local area, including in respect of scale, character, materials, finish. ALP policy D DM1 looks at aspects of form and design quality, including; character, appearance, landscaping and scale.

Para 1.12 of Appendix 1 to the B&E Design Guide (2020) refers to Church Lane's characteristics including "there are ancient flint walls, using the traditional flint cobbles found in local ploughland and old estuary deposits as well as from the nearby beaches" and that "The general high architectural quality of the whole lane has been frequently commented upon". Para 4(j) states "The visual impact of boundary materials, driveways and access paths should be sensitive to the location and in keeping with the character of the street scene. The use of flint with brick walls should be encouraged as well as using natural materials and native species of hedging." Para 4(k) states "Gates should be low impact and appropriate to the adjacent boundary treatment." and para 4(r) states "Driveways, hardstanding, and where possible roadways, should be of porous or permeable construction...Other acceptable materials are gravel on permeable base".

The Arun Design SPD (adopted 2021) Section Q.01 (Rural Development) states "boundaries should be

reflective of their rural context" and "boundaries should be defined by hedgerows and planting in combination with walls, fencing and railings. Front boundaries should generally include gardens with lawns, tree planting and hedges; with areas of hard surfacing kept to a minimum and restricted to gravel and paving".

Recent historic imagery of the site indicates the area was overgrown and consisted of trees, scrub and a section of brick/flint walling. A considerable portion of brick/flint walling has been removed to facilitate the creation of the new access. This loss is regrettable, since brick and flint walling forms a positive characteristic of the area. Significant vegetation, including the trees, has been removed. The removal of the wall did not require planning permission.

These works have affected the area which is lined with flint walls in a combination with timber gates. The entrance does not cause the unacceptable harm and when buffered with vegetation it would merge with existing vegetation. The loss of this section of walling in terms of harm to character does not justify a refusal.

The entrance comprises a pair of 1.2m x1.8m timber field gates and timber fencing comprising cleft rails and sawn posts, 1.3m to 1.4m high, with galvanised wire mesh stapled to the back of the bottom rail and buried into ground.

The materials of the boundary treatment and gates reflect the rural character.

Natural, porous gravel, rather than impermeable paving, has been used which is appropriate in this rural context and accords with the Parish Design Guide. The height of the boundary treatment would be similar to the height of the pilasters adjacent at Birchwood House and would be appropriate in this context.

The entrance does not have an unacceptable impact on the street scene. The proposal is in a general accordance with policies D SP1 and D DM1 of the ALP and the principles in the B&E Design Guide (2020) and ADC Design SPD (2021).

HIGHWAYS IMPACTS:

Paragraph 110 of the NPPF 2021 states that in assessing specific applications for development it should be ensured that (b) safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network.

WSCC Highways (LHA) provided comments as follows:

"The land is currently being used for private stabling and animal housing. This is considered to be a low generator of trips. If in the future development was proposed that sought a materially intensive use of the site in highways terms that would be considered on its own merits at that point.

The access crossover, within the extent of the public highway is of a loose construction and does not meet WSCC crossover specification. The applicant would be invited to retrospectively apply for a crossover licence to regularise the works on the public highway. This will likely require the applicant to resurface the crossover, within the extent of the public highway to WSCC specification. The LHA would

consider the application difficult to resist citing highway safety reasons subject to informative note."

The application broadly accord with paras 110 and 111 of the NPPF and policy T SP1 of the ALP.

DRAINAGE IMPACTS:

Policy W DM1 of the ALP requires that applications for minor developments within the Lidsey Wastewater Treatment Works Catchment Area be accompanied by a Drainage Impact Assessment to take account of individual and cumulative impact upon foul water disposal, flood storage capacity and surface water drainage or flood flows within the LWWTW Catchment Area. Policy W DM3 requires that proposals for both major and minor development proposals incorporate sustainable urban drainage systems (SUDs).

Policy ES1 of the B&ENP 1 require that for new development full details of drainage schemes for surface and foul water are required and must be implemented. Policy ES1 in the B&ENP 2 has amended wording.

Para 4(r) of the B&E Design Guide (2020) states that "Driveways, hardstanding, and where possible roadways, should be of porous or permeable construction. For longevity, block paving should be specified as part of the surface water SUDS system, rather than permeable tarmac....Other acceptable materials are gravel on permeable base".

Part of the site (uppermost western part of the land at the rear of Birchwood House) is in Flood Zones 2 & 3 adjacent to the Rife. Given the location and nature of the works no Flood Risk Assessment (FRA) would be required and the proposal would not increase flood risk on site or elsewhere.

The Council's Drainage Engineer confirmed that, due to scale and nature of development (and on basis of no impermeable surfaces), they have no drainage conditions to request.

Whilst no drainage impact assessment has been submitted, and therefore there is conflict with policy, the access is very small with permeable materials and the technical conflict with the policy does not result in harm.

TREE IMPACTS:

Policy ENV DM4 of the ALP states that development will be permitted where it can be demonstrated that trees subject to TPOs, identified as Ancient Woodland, in Conservation Areas or contributing to local amenity will not be damaged or destroyed unless certain tests are met, including suitable replacement.

Policy ES10 of the B&ENP 1 states that "Development that damages or results in the loss of ancient trees or trees or hedgerows of arboricultural and amenity value will not be supported. Development proposals must be designed to retain ancient trees or trees or hedgerows of good arboricultural and amenity value." Emerging policy ES10 in the draft B&ENP 2 has amended wording to introduce a local species requirement.

The part of the site affected is not in a Tree Protection Order (the western upper part of site/land rear of Birchwood House is under a TPO Area) nor is the site in a Conservation Area.

The application states no trees have been removed as a result of the development. Photos supplied suggest otherwise, with a large tree stump visible in the foreground behind new fencing. It is unclear if this tree work was historic, and even if it has been removed as a result of this development the trees had no protection. All other trees appear to be retained. The Council's Tree Officer was consulted on

previous application and provided no comments/objection. Under the enforcement case, they have confirmed they have no issues with the application in respect of tree impacts.

The proposal complies with the relevant policies quoted.

SUMMARY:

Sufficient information has been provided to demonstrate the access does not have an acceptable impact on the operation and safety of the highways and does not have an unacceptable impact on the street-scene. The application accords with paras 110 and 111 of the NPPF and policies T SP1 and D SP1 of the Arun Local Plan. The policies of relevance are not out of date at para 11c of the NPPF applies. The application is recommended for approval subject to conditions and informative.

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.

RECOMMENDATION

APPROVE CONDITIONALLY

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

Dwg No PO2 Rev 02 Site Layout Plan, Block Plan and Elevation;
Dwg No PO1 Rev 01 Site Location Plan;
Dwg No PO4 Rev 01 Vision Splay Plan.

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: Vehicle Crossover - Minor Highway Works

The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to regularise the construction of the site access works on the public highway. The granting of planning permission does not guarantee that a vehicle crossover licence shall be granted. Additional information about the licence application process can be found at the following web page:

<https://www.westsussex.gov.uk/roads-and-travel/highway-licences/dropped-kerbs-or-crossovers-for-driveways-licence/>

Online applications can be made at the link below, alternatively please call 01243 642105.

<https://www.westsussex.gov.uk/roads-and-travel/highway-licences/dropped-kerbs-or-crossovers-for-driveways-licence/vehicle-crossover-dropped-kerb-construction-applicationform/>

3 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.