

Recommendation Report for Planning Permission

REF NO: BN/93/21/PL

LOCATION: Land off Highground Lane
Barnham
PO22 0BJ

PROPOSAL: 1 No. 5 bed detached dwelling with ancillary parking and bin storage. This application is in CIL Zone 3 and is CIL liable as new dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes to construct a 5 bed dwelling. This will be detached, one storey with ancillary parking and bin storage. This will be raised approximately 1m above ground floor level.
TOPOGRAPHY	Predominantly flat.
TREES	Trees surround the site although none appear to be protected by a TPO.
BOUNDARY TREATMENT	The site has wired fencing at amount 1m in height to the southern boundary running along the access road to Church Lane. Post and rail fencing continues along the east and western elevation.
SITE CHARACTERISTICS	The site comprises agricultural land which is currently meadow/grassland.
CHARACTER OF LOCALITY	The site is outside the built-up Area boundary, in the designated countryside. The site is to the south west of Barnham village, on Highground Lane, off Church Lane. The area is semi-rural in character, the site being located in open fields, between two clusters of residential properties to the south east and north west of Highground Lane. The boundary to the Church Lane Barnham Conservation Area is close by. A Rife (drainage ditch serving arable land) runs near the site. The property is in Flood Zones 2 & 3. The site is in the Lidsey Waste Water Treatment Works Catchment Area.

RELEVANT SITE HISTORY

PAA/138/19/	Proposed new 5 bedroom dwelling (with floor level set 450mm min above ground level - in FZ 2 & 3, FRA done)	Refuse Pre App 10-01-20
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None.

REPRESENTATIONS

Barnham Parish Council - objection

- The site is outside the built up area boundary.
- Policy ES1 of the Neighbourhood Plan states new development should reduce flood risk. The build with stepped access raises concerns about the flood risk to the building.
- The development is opposite a biodiversity corridor as noted in the emerging Neighbourhood Plan.

5 letters of objection from nearby occupiers.

- The site is unsuitable for development.
- The site regularly floods and not suitable for habitation.
- The building would be out of character and visually inappropriate.
- It is adjacent to a major watercourse.
- There would be a destruction to wildlife.
- The rife floods over the fields.
- Poor sewer provision.
- The proposed use of gravel for the road would wash into the rife.
- Increased noise on site, carrying across the fields.
- Privacy would be affected with views currently over the fields which would be impacted.
- The single track access road would not cope with increased traffic.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed in the conclusion.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environment Agency - In the absence of an acceptable flood risk we object. The FRA fails to complete an exception test, utilise product 4 data to accurately show flood risk history and future flood levels, consider how people will be kept safe from flood hazards, and stating finished floor levels.

ADC Drainage Engineers - Objection.

The FRA has significant omissions and errors. Part of the site is a functional flood plain Zone 3b. This is where water has to be stored in times of flood. Annual probability of flooding is 1 in 20 in a year or greater, which is the case in the Arun. As the development is for "More Vulnerable" use as a dwelling house Table 3 Flood Risk Vulnerability and Zone Flood 'compatibility' shows that development should not be permitted. An appropriate sequential test is not evidenced. The FRA states no historic records of flooding at the site, however our mapping shows the site within the historic flood map. Whilst the dwelling is raised, safe access to and from the dwelling has not been considered. Ground level electric car charging is proposed but not logical or appropriate. SuDs should not be located in Zone 3 and surface water design should be agreed prior to determination.

WSCC Highways - No objection

- The applicant proposes a new vehicular access to the privately maintained road. The applicant is advised to contact the proprietor of the privately maintained road, to obtain formal approval for the access works.
- The LHA consider the proposed parking provision to be sufficient.
- No transport grounds to resist the proposal.

Environmental Health - No objection

- Add conditions relating to contamination, submission of a small development construction plan and working hours.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Outside built up area boundary
Flood Zone 3.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

ECCSP1	ECC SP1 Adapting to Climate Change
ENVDM5	ENV DM5 Development and biodiversity
QEDM1	QE DM1 Noise Pollution
QEDM4	QE DM4 Contaminated Land
SDSP1	SD SP1 Sustainable Development
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
DDM1	D DM1 Aspects of form and design quality
CSP1	C SP1 Countryside
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ENVDM4	ENV DM4 Protection of trees
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
WDM2	W DM2 Flood Risk

<u>Barnham & Eastergate Neighbourhood Plan 2014</u> <u>POLICY ES1</u>	Applications for new development must meet the local drainage requirements
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES4	Protection of open views
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES5	Quality of design
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES6	Contribution to local character
Barnham & Eastergate Neighbourhood Plan 2014 POLICY GA4	Parking and new development
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H2	Windfall sites

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

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

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.

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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect upon the established character of the surrounding area.

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 to be considered are the principle of the development in the countryside, the design and visual amenity, residential amenity, flood risk.

PRINCIPLE

The site lies outside the built-up area boundary in the countryside. Policy C SP1 of the Arun Local Plan states that outside the built-up area boundaries land will be defined as countryside and development will only be permitted in the countryside where the criteria set out in policy C SP1 is met, or there is a strong justification for a countryside location. The proposal does not meet any of the exception tests set out in the Arun Local Plan (ALP) policy C SP1 to justify countryside development.

The Barnham & Eastergate Neighbourhood Plan does not set a built-up area boundary and policy H2 allows for the development of small residential developments on infill and redevelopment sites in the parishes. The policy does not state that these must be within the built-up area boundary.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states applications should be determined in accordance with the plan unless material considerations indicate otherwise. The Development Plan for the Arun District currently comprises the Arun Local Plan 2011-2031 ("ALP") and the Barnham and Eastergate Neighbourhood Plan.

In December 2020, the Council republished its Authority Monitoring Report (AMR) for 2019/20. This states the HLS has increased to 3.3 years. Those policies most relevant to the determination of the application have reduced weight. A relevant material planning consideration is the Council's lack of a 5 year Housing Land Supply (currently 3.3 years). In order for the NPPF's (para 11) 'presumption in favour of sustainable development' to apply it must first be assessed whether the proposal would constitute 'sustainable development'.

For development proposals to be considered 'sustainable' they have to satisfy the environmental, economic and social tests as per paragraph 8 of the NPPF. The proposal for a dwelling meets the economic objective and would result in some economic gains in terms of providing employment during the construction phase and potential local spending, and these economic benefits weigh in the schemes favour. The proposal meets the social objective, making a contribution of 1 new home to the District's housing supply. The site is in a relatively environmentally sustainable location being within a relatively close walking/cycling distance of the centre of Barnham which has a railway station, bus stops and food shops/schools etc. On balance, the proposals would not satisfy the environmental test of sustainable development due to the location of the site and flooding.

SUMMARY OF SUSTAINABILITY & PRINCIPLE:

As described above, the proposal would conflict with Development Plan policy relating to residential development outside the built-up area boundary within the countryside. Para 11 of the NPPF gives a presumption for sustainable development. Given the conclusion on flooding the paragraph is not relevant.

DESIGN AND VISUAL AMENITY

ALP policy D DM1 looks at aspects of form and design quality, including character, attractiveness, innovation, residential amenity impact, adaptability, density, scale, trees, crime prevention. New buildings should be harmonious with their surroundings and successfully integrate with the existing surrounding environment.

Paragraph 124 of the NPPF supports development that makes effective use of land and achieves appropriate densities, whilst taking into account the need for different types of housing, local market conditions and viability, the availability and capacity of infrastructure and services, the desirability of maintaining the areas prevailing character and setting, and the importance of securing well-designed, attractive and healthy places.

Paragraph 130 of the NPPF details the design requirements for new developments, including that developments should function well, are visually attractive and sympathetic to local character and history, have an appropriate mix of development including green and public space and create places that are safe, inclusive and accessible.

The dwelling proposed is a single storey detached dwelling featuring a hipped roof with two gable projections to the north eastern elevation. It will be raised approximately 1m above the ground floor level on brick piers.

The site is not located in an existing cluster of development but rather in an area of open fields between two clusters of residential properties on either side, to the south east and north west of Highground Lane. This open area forms a physical and visual gap and separation between these two areas of housing. These views across the space form part of the character of the area. The addition of a new dwelling would not reflect the local pattern of development, resulting in harm to the character and views of the open countryside, which would undermine the physical and visual separation of housing and fail to integrate with its surroundings.

The elevation which fronts the road is essentially the side elevation of the dwelling, featuring a row of windows with the front door located to the north western side. As a result of the orientation the principal view of the dwelling when entering from the east at Church Lane are of poor design merit. The gables additions and balcony are located to the rear of the site, not visible from the street view. Materials consist of black clad walls. This is not appropriate for its countryside setting, which would result in the dwelling appearing a dominant feature upon the area in contrast to surrounding properties which feature red brick elevations, with limited examples of cladding within the locality.

The Arun Design Guide seeks to raise design in the district. Section P states 'Surrounding buildings and spaces must inform an appropriate infill design response in order to contribute to a sense of cohesion and unity.' 'Infill development is more common within rural contexts, where the surrounding landscape setting must inform the location, character and boundary treatments of any proposed development'. Building Design (Section J) notes new buildings should have a form and character that reflect their setting and reflect the scale of existing buildings in the area, the need to use attractive detailing and high quality materials and that traditional materials will be actively encouraged to reflect the local vernacular of the area. The proposal does not comply with the design guide in that the siting of the dwelling is not appropriate infill design, with no cohesion with neighbouring properties, becoming an isolated feature between two clusters of development. The materials do not reflect those of the surrounding area.

The proposal by reason of its siting, results in significant harm to the character of the area and would fail to accord with relevant NPPF policies, D DM1 (1) and (2) of the Arun Local Plan and ES5 of the Barnham and Eastergate Neighbourhood Plan.

RESIDENTIAL AMENITY

Policy D DM1 of the Arun Local Plan that new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance.

Policy QE SP1 states that the Council requires 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.

Paragraph 127 (f) of the NPPF states that development should have a high standard of amenity for existing and future users.

Although the dwelling would occupy an elevated position (1m above ground level) given it would have large separation distances to the nearest neighbouring properties it would not result in adverse overbearing or overshadowing impacts. The proposed rear balcony will have views over the fields to the rear of the site with no views into neighbouring properties.

The proposal will not result in any significant impact in terms of outlook, light and privacy of neighbouring occupants in accordance with D DM1 (3) of the Arun Local Plan.

SPACES STANDARDS

Policy D DM2 of the Arun Local Plan states that the planning authority will require internal spaces to be of an appropriate size and that the Nationally Described Space Standards apply. This national guidance advises that for a one storey 5 bedroom home, the minimum Gross Internal Area is as follows:

5B6P = 103 sqm with 3.5sqm built-in storage

5B7P = 112 sqm with 3.5sqm built-in storage

5B8P = 121 sqm with 3.5sqm built-in storage

The floor plan demonstrates a floor area of 241 sqm and far exceeds the requirements.

There are no requirements for external space standards however Section H.04 of the adopted Arun Design Guide SPD advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable. It states that 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 site plan demonstrates that there would be a large garden surrounding the property which would comply with the guidance and policy H5 of the Barnham and Eastergate Neighbourhood Plan.

PARKING AND TRANSPORT

Regard should be had to paragraph 111 of the NPPF which states: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe". Policy 108 refers to maximum parking standards for residential and non-residential development.

Policy T SP1 of the ALP supports development which incorporates appropriate levels of parking in line with the West Sussex County Council guidance on parking provision.

The ADC Parking SPD advises that for a 5 bedroom property in this type of location (Zone 2) a minimum of 3 car parking spaces on site would be required.

The number of spaces provided complies with Arun Parking Standards and it is not considered to result in harm upon the highway or parking in the area.

A new vehicular access is proposed from a private road. WSCC have no objection, although note consent should be obtained from the owner.

In terms of cycle parking, ADC parking SPD requires 2 cycle spaces for a 5 bed property. Cycle storage should be undercover, secure, and easily accessible to occupants. This is demonstrated on the plan.

Electric charging points should be provided, as per the ADC Parking SPD. This is demonstrated on the plan however a concern has been raised due to its siting at ground floor level which is recognised at risk of flooding.

The parking allocation complies with T SP1 of the Arun Local Plan and GA4 of the Barnham and Eastergate Neighbourhood Plan.

FLOOD RISK

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary in such locations, making it safe for its lifetime without increasing flood risk elsewhere. It refers to the application of a Sequential Test approach, the Exception Test and the submission of Flood Risk Assessments. The relevant requirements for these are dependent upon the designated flood zone that the site is located within.

Paragraph 166 of the NPPF states when determining planning applications, LPAs should ensure that flood risk is not increased elsewhere, and where appropriate, applications should be supported by a site-specific flood risk assessment. Development in areas at risk of flooding should only be permitted, where, in the light of the FRA (and sequential and exception tests as applicable) it can be demonstrated amongst other things that the development is appropriately flood resistant and resilient, it incorporates SUDs, and safe access and escape routes are included.

Arun Local Plan policy W DM2 sets out the requirements for development in areas at risk of flooding, including; the need for the sequential test, an FRA, adaptation and mitigation measures, flood warning and evacuation plans and site drainage plans. Policy W DM1 advises proposals for minor development on sites in the Lidsey Wastewater Treatment Works Catchment Area must be accompanied by a Drainage Impact Assessment that must take account of the individual and cumulative impact upon foul water disposal, flood storage capacity, and surface water drainage or flood flows.

Policy ES1 of the Neighbourhood Plan states development will not be supported without clear evidence of there being no flood risk (either to the development site or to other land) arising from it, and it should take account of the Surface Water Management Plan for Lidsey Catchment and the Aldingbourne and Barnham Rife Strategy when published.

The potential vulnerability of the site falls Flood Zone 2 (medium risk of flooding) and 3 (highest risk of flooding). ADC Drainage confirmed part of the site is classified as Flood Zone 3b which is a functional flood plain at high risk of flooding. A Rife (small river) runs close to the site. The flood vulnerability classification falls in the 'more vulnerable' category which includes buildings used for dwelling houses.

In line with both W DM2 and the NPPF more vulnerable housing proposals normally require a flood risk Sequential Test to be passed. If it is not possible for development to be located in zones with a lower risk of flooding, the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance. The relevant information has not been submitted.

The new dwelling would be raised on brick piers, above the ground to reduce flood risk to the property thus allowing flood water to flow beneath and around the dwelling, although access and egress from the dwelling during times of flood does not appear to be considered. The EA assessed the application and objected noting the FRA does not adequately assess the flood risks posed by the development.

The site is in the Lidsey Waste Water Treatment Works Catchment Area. Due to the classification of the site, surface water drainage should be detailed prior to determination. The applicant notes SuDs will be used however SuDS should not be located in functional flood plain, neither in Flood Zone 3 as the drainage features will likely become inundated with fluvial water and in this case surface water.

Due to the absence of an acceptable FRA assessment, a sufficient and robust Sequential Test and Exceptions Test and surface water drainage details, it is considered that insufficient information has been submitted to demonstrate that the application site is sequentially preferable and consequently the proposal is considered to be contrary to W DM2, WDM1 of the Arun Local Plan, NPPF, specifically the section 'Meeting the challenge of climate change, flooding and coastal change' and ES1 of the Barnham and Eastergate Neighbourhood Plan

TREES

Policy ENV DM4 seeks to protect trees with TPOs, identified as Ancient Woodland, in Conservation Areas, or contributing to local amenity.

Policy ES10 of the NP states that development must be designed to retain ancient trees or trees and hedges of good arboricultural and amenity value.

Paragraph 170 of the NPPF seeks to contribute to the natural and local environment by recognising the intrinsic character and beauty of the countryside, including trees and woodland.

There is a mix of trees and hedgerows to the north west of the site, although none are proposed for removal. Due to the siting, the proposal is not deemed to fall in the RPA. The tree statement provided includes details to show that protection measures that will be used if necessary.

The Tree Officer has not responded and in the absence of comments, it is difficult to justify a refusal on tree grounds.

The proposal compiles with relevant policies ENV DM4 of the Arun Local Plan and EH6 of the Neighbourhood Plan.

BIODIVERSITY NET GAIN

Arun Local Plan policy ENV DM5 states that development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

Section E.03 of the ADC Design SPD seeks to protect and enhance biodiversity in the development site and the wider area.

Paragraphs 174, 179 and 180 of the NPPF indicates that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity.

Given the use of the site as grassland/meadows and the presence of hedgerows, it is considered likely that there could be wildlife on the site. The ecology officer has been consulted however no response was received.

A bat box and bird box are demonstrated on the plan. A condition would be included to ensure that these measures are followed to ensure biodiversity is not adversely impacted as a result of the build.

SUMMARY

The proposed development is deemed to conflict with development plan policies.

All other relevant planning considerations have been taken into account but none are of sufficient weight to warrant the recommendation being amended.

It is therefore recommended that permission be refused for the following reasons.

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.

CIL DETAILS

This application is CIL Liable therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION

REFUSE

- 1 The dwelling, by reason of its siting and design, would not reflect the local pattern of development and the character of the rural/countryside setting. It would result in an incursion of the open countryside and views across this space, would undermine the physical and visual separation of housing in this area, and would not integrate with its surroundings. It fails to accord with Policy D DM1 of the Arun Local Plan, Policy H4 of the Neighbourhood Plan, Section P of the Arun Design Guide, design policies of the NPPF.
- 2 The proposal fails to demonstrate the site is the most sequentially preferable site in flood risk terms, with no sequential test or exception test undertaken as set out in the NPPF.

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance. The FRA does not adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- Complete an exception test;
- Utilise product 4 data to show accurate information, including flooding history and future flood levels in relation to the development;
- Consider how people will be kept safe from the identified flood hazards, including stating

finished floor levels and how these are safely above future flood levels (including 300mm freeboard); and

- Consider how a range of flooding events (including extreme events) will affect people and property

The proposal is contrary W DM2 of the Arun Local Plan and to the NPPF specifically section 'Meeting the challenge of climate change, flooding and coastal change.'

- 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 identifying matters of concern. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible. The applicants should note the comments of ADC engineers and the EA regarding flood risk.