

Recommendation Report for Planning Permission

REF NO: CM/14/19/PL

LOCATION: Lower Dairy Barn
Brookpit Lane
Climping
BN17 5QU

PROPOSAL: Application for removal of condition imposed on planning reference CM/11/10 relating to condition no.7 - to allow the change of use of Lower Dairy Barn & cowshed outbuilding from a single holiday let to 1no. residential unit for permanent occupation

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal seeks permission to change the use of the building currently used for tourism accommodation, between March and October, as a single, independent residential unit with occupation all year round.
SITE AREA	1000 sqm
RESIDENTIAL DEVELOPMENT DENSITY (NET)	10 dwellings per hectare
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	2m high flint walling to lane. 2m high hedging to field boundaries
SITE CHARACTERISTICS	Converted farm building with flint elevations and slate and plain tiled roof.
CHARACTER OF LOCALITY	Rural. Adjacent to a public footpath. Fields to the rear. Some sporadic housing around the farm settlement.

RELEVANT SITE HISTORY

CM/11/10/	Amendment to approved application CM/29/09 change of use of cow shed in to single holiday let unit, installing 4 rooflights to the north elevation. Replace dilapidated roof to the covered barn together with associated works. Re instate roof structure and covering to existing main barn.	ApproveConditionally 12-08-10
CM/29/09/	Change of use of cow shed outbuilding into 2 holiday let units, installing 4 rooflights to the North elevation. Replace dilapidated roof to covered barn together with	ApproveConditionally 22-01-10

associated works. Reinstall roof structure & covering to existing main barn

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Climping Parish Council

No Objection - Provided planning officer is satisfied that drainage is not a problem and that the traffic impact onto Brookpit Lane is limited.

One Support - This building would be much better as a permanent home rather than holiday lets, especially in view of the pressure to have more houses. I have lived opposite for 17 years, and contrary to some comment, this spot is not prone to flooding.

Two No Objection - This is not in a flood zone. The extra traffic to Dairy Barn is not noticeable.

One Objection - There is a long history of winter flooding at Lower Dairy that takes place between October and March. One recent event took place in winter 2012 and caused significant risk to guests. The site is low lying and surrounded by higher land on all sides. At the present time the site has no benefit from any flood mitigation measures or drainage and remains extremely vulnerable.

The site does not have a specific flood risk assessment, a topographical survey, an assessment of groundwater levels or any information on local drainage infrastructure.

COMMENTS ON REPRESENTATIONS RECEIVED:

The traffic and activity levels generated by the use would not be significantly increased. The amount of residential accommodation is not altering, it is just extending across the year. The flood zone for this area has changed since the determination of the previous application. It was formerly located within flood zone 3 but the site now falls within flood zone 1, with a low probability of flooding. The Environment Agency have no objection to removal of the condition and all year round occupation.

CONSULTATIONS

Economic Regeneration

Environment Agency

CONSULTATION RESPONSES RECEIVED:

Environment Agency - No Objection

This site was previously in Flood zone 3 and so a planning condition was set by the Environment Agency in 2010 to limit the occupation to a holiday let for seasonal months only. The flood zone for this area has now subsequently changed and the site now sits within flood zone 1, with a low probability of flooding. Therefore, we are happy that Condition 7 is removed on this basis.

Tourism Officer - Awaited

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:

Outside Built Up Area

Within Settlement Gap

Biodiversity Opportunity Area

DEVELOPMENT PLAN POLICES

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

CSP1	C SP1 Countryside
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
TOUDM1	TOU DM1 Tourism related development
HDM4	H DM4 Conversion of rural buildings for residential use
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment
DDM2	D DM2 Internal space standards
TDM1	T DM1 Sustainable Travel and Public Rights of Way
HERDM1	HER DM1 Listed Buildings
HERSP1	HER SP1 The Historic Environment
WDM2	W DM2 Flood Risk
ENVDM3	ENV DM3 Biodiversity Opportunity Areas
ENVDM5	ENV DM5 Development and biodiversity

[Clymping Neighbourhood Plan 2015 Policy CPN11](#) Quality of Design

Clymping Neighbourhood Plan 2015 Policy CPN14 Traffic and the Environment

Clymping Neighbourhood Plan 2015 Policy CPN5 Support and promote recreation and tourism

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 Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

The following Climping Neighbourhood Plan policies are considered relevant;
CPN12 - Reducing the risk of flooding
CPN 14 - Traffic and the Environment of the Clymping Neighbourhood Plan

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 it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

BACKGROUND

Planning permission CM/11/10 was implemented in 2010 and completed by 2012 and at this time the tourism use began. The building is currently used as a holiday let, restricted by the conditions set out in permission CM/11/10. Condition 7 stated "The tourist unit shall be occupied only for holiday use purposes only and not between the months of October and March in any year without the prior written consent of the Local Planning Authority.

Reason: The site lies outside the built up area boundary and within flood zone 3 where development is not normally permitted and to ensure the occupation of the accommodation is only during months when the risk of extreme flood events is at its lowest to protect the lives of the occupants and reduce risk to emergency services in accordance with Arun District Local Plan policy GEN3, GEN10."

This application seeks planning permission for the removal of the above condition to allow the permanent change of use of the building to a single dwelling thereby allowing year round, unrestricted occupation.

The existing property comprises two double bedrooms, two bathrooms, sitting room, kitchen and the large barn area which is used for recreational activities and for sitting out in the sun and barbecues.

The proposal solely relates to the removal of condition 7. No internal or external alterations/additions or extensions are proposed as part of this application.

PRINCIPLE

The site lies in the countryside outside of the defined built up area boundary as defined in the Arun Local Plan 2011-2031 (ALP) and within a Strategic Gap between Littlehampton and Middleton.

Policy C SP1 states that development in the countryside will only be permitted where it relates to certain

criteria as follows;

- a. for the operational needs of agriculture, horticulture, forestry, the extraction of minerals or the management of waste as part of a waste site allocation within the West Sussex Waste Local Plan;
- b. for quiet, informal recreation;
- c. for green infrastructure;
- d. for the diversification of the rural economy;
- e. for road and/or cycle schemes;
- f. in accordance with other policies in the Plan which refer to a specific use or type of development.

The original application for the conversion of the premises was accepted and approved under CM/11/10 subject to condition 7 which was justified on the basis of the countryside location and high flood risk. The removal of the condition therefore falls to be considered mainly against policies CSP1 'Countryside' and WDM2 'Flood Risk' of the Local Plan and policy CPN 12 'Flood Risk' of the Neighbourhood Plan.

No alterations to the property are proposed and the extended use of the premises will have no adverse impact on the intrinsic character and beauty of the area in accordance with policy CSP1. The activity levels associated with the use are unlikely to increase significantly. They would not be intensified since the level of use and number of occupiers is largely restricted by the number of bedrooms. The use will just be extended across the year.

Policy SD SP3 - The application site is located within the strategic gap between Littlehampton and Middleton on Sea. The policy seeks to prevent coalescence and retain the separate identity of settlements and to protect generally open and undeveloped denture of gaps between settlements. The proposal would have no visual impact on the gap and would therefore be compliant with this policy.

The National Planning Policy Framework

para. 117. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or brownfield land.

118. Planning policies and decisions should:

- d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Policy SD SP1a encourages the reuse of Previously Developed Land which this site is defined as.

Whilst the original conversion was partly justified on the basis of diversification of the rural economy the Government are relaxing certain permitted development rights, including changes to existing agricultural buildings to be used for residential (C3) use together with some building works to facilitate conversion under Class Q. This guidance demonstrates that the Government are supportive of rural conversions and the introduction of unrestricted residential housing in rural locations. This is a material consideration.

Further it has been demonstrated in case law that a holiday let is no different from a normal permanent residential dwelling use. Paragraph 78 of the NPPF states sustainable development in rural areas should be promoted and housing located to enhance or maintain the vitality of rural communities.

SUMMARY OF PRINCIPLE ISSUE

It is not considered that the proposals comply countryside policy C SP1 in the Arun Local Plan in that the

criteria for acceptable development are not met, however in order for it to be concluded that the proposals are unacceptable there has to be demonstrable harm to the aims of the policy. No harm has been demonstrated in consideration of the conflict with the countryside policy over and above the existing development at the site. The intrinsic character and beauty would be retained. Overall the proposal is considered to represent a sustainable form of development and given the other material considerations which weigh in favour of the principle of the development, the planning balance (notwithstanding the policy objection) lies in favour of granting permission in principle subject to the other matters addressed below.

CONVERSION

Policy H DM4 of Arun Local Plan relates to conversion of buildings for residential use outside the built up area. The principle of conversion and change of use to habitable purposes has been accepted and the permission implemented. This proposal is not therefore considered relevant since the building has already been converted and is used for residential accommodation. Notwithstanding this, even if the criteria are considered the proposal would be compliant since the building is structurally sound, the use has no adverse effect on the character of the area and the conversion has been sympathetic with regard to design. The proposal would be compliant with policy CPN 14 - Traffic and the Environment of the Clymping Neighbourhood Plan in that activity levels associated with year round use would be comparable with the existing albeit they would extend throughout the year. The only area of conflict with policy HDM4 would be that the proposal is not for commercial purposes and that it has not been demonstrated that the current use is not viable.

The NPPF is supportive of rural conversions in that Paragraph 79 notes planning policies and decisions should avoid the development of isolated homes in the countryside with various exceptions which include conversions of redundant or disused buildings. Whilst the building is not disused the conversion to residential use has already occurred.

TOURISM

Policy TOU DM1 refers to new accommodation outside the built up area boundary and does not relate to loss of such accommodation. The proposal would provide an additional residential dwelling in a rural area.

RESIDENTIAL AMENITY

It is accepted that activity and noise associated with the proposal would be readily comparable with those generated by holiday albeit that the use would no longer be seasonal. It is therefore considered that the proposal complies with policy D DM1 of the Arun Local Plan with respect to residential amenity.

INTERNAL & EXTERNAL SPACE STANDARDS:

Policy D DM2 of the ALP states that:

"The planning authority will require internal spaces to be an appropriate size (having regard to the exceptions that may apply as referred to in paragraph 13.3.4) to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance."

The required internal space standard for a house of this number of bedrooms is 70m² but the proposal far exceeds this with a total internal floor area of around 72m² (excluding the barn area) therefore complying with policy D DM2.

Arun Local Plan 2011-2031 policy D DM1 refers to the need for compliance with the Arun Design Guide. This is to replace policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. Until such time as this Design Guide is published, there is no policy within the Arun

Local Plan regarding private gardens sizes. However, regard should be had to paragraph 127 of the NPPF which requires that new development has a high standard of amenity for existing and future users.

The proposal includes a large area of garden to the sides and front of the plot such that the amenity space provided is considered acceptable for use by a single family unit.

The proposal therefore complies with ALP policy D DM1 and the National Planning Policy Framework with respect to outdoor amenity space.

BIODIVERSITY

Policy ENV DM5 Development and Biodiversity seeks to achieve a net gain in biodiversity and protect existing habitats on site. Where there is evidence of a protected species a detailed survey and measures to avoid loss of species shall be incorporated into the development scheme. This proposal would not impact on the biodiversity of the site. Residential occupation of the site is existing and will continue. The site also lies in an area designated as a Biodiversity Opportunity Area and the proposal would be compliant in so far as the use would not alter or disturb existing habitats. The provision of bat/owl boxes was the subject of condition 6 of CM/11/10 when the building was originally converted.

FLOODING

Although at the time of consideration of the original application the site was categorised as at a High Risk of Flooding (Flood Zone 3) it now lies in Flood Zone 1 where there is a low probability of flooding and the Environment Agency have advised that they have no objection to year round occupation. The application is therefore compliant with policy WDM2 of Arun Local Plan and policy CPN 12 of the Climping Neighbourhood Plan.

REASONABLENESS OF THE CONDITION

The reason for the imposition of the condition is in part due to the seasonal nature of the use and the potential for flooding in the winter. This is not a reasonable condition since the justification is flawed as the site is now located in an area with a low risk of flooding.

Paragraph 54-55 of the NPPF refer to planning conditions and state that LPAs should consider whether unacceptable development could be made acceptable through the use of conditions. Planning conditions should be kept to a minimum and only used imposed where they are necessary, relevant, enforceable, precise and reasonable. The condition is therefore now unreasonable in respect of flood risk.

CONCLUSION

The application is therefore recommended for approval subject to the following conditions.

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 permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby approved shall be carried out in accordance with the following approved plans Location and Floor Plan 193005/01 , Elevations and Block Plan 193005/02A.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.
- 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.