

Recommendation Report for Planning Permission

REF NO: EG/98/14/PL

LOCATION: Rear of 59 Elm Grove
Barnham

PROPOSAL: Construction of 3 No. two storey detached houses with new access.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. All three houses are two storeys with 3 double bedrooms. 1 garage and 2 parking spaces are proposed for each. Access will be taken down the northern side of 59. This results in the demolition of an existing double garage and an aviary structure. It is unclear as to the proposed parking provision for 59. Five new trees are also proposed. It should be noted that all three dwellings are linked at ground floor by extensions. Therefore strictly speaking, they are link detached.

SITE AREA

0.27 Hectares

RESIDENTIAL DEVELOPMENT DENSITY (NET) 15 dwellings per hectare.

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

- * The boundary to no. 60 is a 2-2.5m high hedge;
- * The boundary to no. 57 is a part 2m high dilapidated close boarded fence and part 2m high hedge; and
- * The boundary to the countryside to the east is predominantly open albeit with bramble growing in a strip of land between the site and the cultivated fields.

SITE CHARACTERISTICS

Existing double fronted two storey detached residential dwelling set in spacious gardens which extend some 60-70m to the rear. The rear gardens are grassed. There is an existing pitched roof double garage on the northern side and several outbuildings in the rear garden. The ground level remains of a further outbuilding were visible at the end of the

garden. In addition to the double garage and the parking spaces in front of the garages, there was hardstanding suitable for 1 car to the immediate front of no. 59.

CHARACTER OF LOCALITY

Residential but with open countryside to the immediate east. No. 60 (to the south) is a bungalow with no windows in the roof whilst to the north, no. 57 is a 1.5 storey dwelling but with no flank facing first floor windows. Nearby dwellings are mixed with several different styles evident.

RELEVANT SITE HISTORY

EG/6/73	Outline erection of 17 houses and garages	Refused 14-03-1973
EG/64/74	Outline for 3 bedroomed residence with integral garage	Approve 02-10-1974
EG/53/77	Renewal of outline permission EG/64/74 for one dwelling with integral garage	ApproveConditionally 24-08-1977

None relevant.

REPRESENTATIONS

Representations received:

Eastergate Parish Council

Eastergate Parish Council - "The council objects to the proposed works and expresses concern at the District Councils' approach to the question of flooding in this flood zone area, which is well known for flooding, and where pumping has had to be undertaken for 3 days in January. The council

considers the proposal to be overdevelopment of the site and out of keeping with the characteristics and appearance of the surrounding area. In addition, the application is contrary to policy ES1 of the Barnham and Eastergate Neighbourhood Plan and does not fulfil the principles of policy H2 of the said Plan."

In addition, 15 letters of objection have been received and raise the following issues:

- * Increased flooding issues & inadequacy of the Flood Risk Assessment;
- * Increased pressure on the public foul & surface water sewers;
- * Not in accordance with the Neighbourhood Plan;
- * Increased traffic on an unlit road;
- * Loss of privacy/overlooking of nearby houses;
- * Lowering of property values;
- * How will the new residents help to maintain the private road;
- * Out of character with the rest of Elm Grove;
- * Conflicts with NPPF Para. 53;

- * Loss of views from neighbouring properties; and
- * Noise & disturbance to neighbour from the use of the access road.

Comments on Representations received:

It is clear from the Flood Zone mapping that only the very rear of the site lies within Flood Zone 2/3. Furthermore, none of the Environment Agency, Southern Water or the Councils Drainage Engineers raise any in principle objection to the application. It is also noted that West Sussex Highways raise no objections with regard to highway safety. Property values, loss of views and private road maintenance are not material planning considerations.

Although paragraph 53 of the NPPF states that: "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area", this does not itself mean that backland development is automatically unacceptable, rather it suggests that local authorities may make their own policy to prevent backland development.

CONSULTATIONS

Southern Water Planning
Engineering Services Manager
Engineers (Fluvial Flooding)
Highways Agency
Environment Agency
Arboriculturist
WSCC Strategic Planning

Consultations responses received:

Environment Agency - No objection: "The applicant has submitted a flood risk assessment which demonstrates that the risks can be managed."

Highways Agency - No objection.

Southern Water - No objections. Request a condition & an informative both relating to connections to the foul & surface water sewers.

West Sussex Highways - No objections. Comments available in full on our website. In summary: "The LHA are satisfied that the proposed development accords with paragraph 32 of the National Planning Policy Framework in that safe and suitable access to the site can be achieved and that the proposed development will not have a server residual impact on the operation of the highway network." Recommend conditions in respect of: access, parking, maximum achievable visibility splays, construction plant & materials and cycle parking.

ADC Drainage Engineers - "The applicant states that surface water will be discharged to permeable paving, with restricted discharge to the (piped) watercourse. The proposals ensure that the buildings remain out of the Flood Zone. Please apply standard conditions ENGD2A, ENGD4A. If discharge to the watercourse is still required, it is to be agreed with the EA as it is Main River. The levels should ensure that surface water can discharge for the range of water levels in the watercourse at this location."

ADC Arboriculturist - "I would have no objections to the retention/removal and arboricultural assessment submitted. Also the submitted protection and mitigation statements/plans would meet the criteria set by the BS 5837:2012. I therefore have no objection to this application, as long as the methodology provided is adhered to."

Comments on Consultation responses:

Noted.

POLICY CONTEXT

Designation applicable to site: Flood Zones 2/3 (the rear 3rd of the site).

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN2 GEN5 GEN7 GEN9 GEN11 GEN12 GEN29	Built-up Area Boundary Provision of New Residential Development The Form of New Development Foul and Surface Water Drainage Inland Flooding Parking in New Development Nature and Conservation Across the District
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality D DM2 Internal Space Standards D DM3 External Space Standards D SP1 Design ECC SP2 Energy and Climate Change Mitigation SD SP2 Built-Up Area Boundary ENV DM4 Protection of Trees ENV DM5 Development and Biodiversity T SP1 Transport and Development W DM3 Sustainable Urban Drainage Systems W DM2 Flood Risk
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES1		Applications for new development must meet the local drainage requirements
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES10		Trees and hedgerows
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES11		Energy efficiency of new development
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 ES8		Buildings should be designed to reflect the three-dimensional qualities of traditional buildings
Barnham & Eastergate Neighbourhood Plan 2014 POLICY GA1		Connection to sustainable transport
Barnham & Eastergate Neighbourhood Plan 2014 POLICY GA4		Parking and new development
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H2		Windfall sites
Barnham & Eastergate Neighbourhood Plan 2014		Housing mix

POLICY H3

Barnham & Eastergate Neighbourhood Plan 2014 Integration of new housing into surroundings

POLICY H4

Barnham & Eastergate Neighbourhood Plan 2014 Outdoor space

POLICY H5

Barnham & Eastergate Neighbourhood Plan 2014 Attention to detail

POLICY H6

Barnham & Eastergate Neighbourhood Plan 2014 Drainage for new housing

POLICY H7

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton.

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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and the residential amenities of the adjoining properties, and it would also 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

PROPOSAL

This application seeks planning permission for the residential development of the rear garden to provide 3 two storey link detached dwellings with access from Elm Grove taken down the side of the existing house. The proposal results in the demolition of various outbuildings including notably the existing double garage to 59.

PRINCIPLE:

The site is located within the built up area boundary where the principle of new development is considered to be acceptable subject to other policies in the development plan. Indeed, paragraph 49 of the National Planning Policy Framework (NPPF) states with regard to housing that: "Housing applications should be considered in the context of the presumption in favour of sustainable development".

The site is not allocated within the Barnham & Eastergate Neighbourhood Plan for residential development however NP Policy H2 allows for small residential windfall sites to come forward on infill and redevelopment sites during the lifetime of the Plan.

VISUAL AMENITY AND CHARACTER OF THE AREA:

Essentially, this proposal represents a form of backland development by virtue of siting the new dwellings in the rear garden of an existing dwelling. Such development is generally not considered to be in character with the existing form of development and as such is generally resisted across the district. It is clear that Elm Grove has not previously been subject to any backland type developments and therefore in principle the proposal fails to respect the character of the local area.

Furthermore, it is considered that the proposal harms the established character of Elm Grove by cutting 59's existing garden in half and proposing plot depths that will only be half the length of those plots on either side. It is clear that this part of Elm Grove (excepting those dwellings on the

north side which back onto Wentworth Close & the school) is characterised by detached dwellings on a similar building line at the front of the plot and with deep gardens. The proposal, if approved would severely erode this established character. In addition, all nearby dwellings are detached. The proposed three dwellings are described as detached but in actual fact, are link detached and this is also considered to be detrimental to the prevailing character of the area.

It is noted that the boundary of the site to the open flat countryside to the east is open. Although planning permission would not be required to enclose this boundary with trees, it is likely that the occupiers of the existing and new dwellings would prefer to look out across the open fields and enjoy the sense of countryside. Therefore, it is considered likely that this boundary will remain open and as such the new dwellings will also be more noticeable to long distance views of Elm Grove than the existing dwelling is.

RESIDENTIAL AMENITY:

It is considered that the proposal also has the potential to adversely affect neighbouring properties by reason of (a) noise & disturbance from the use of the private access road; and (b) a loss of privacy caused by overlooking of neighbouring properties and of 59 itself.

Turning first to the concerns with the access road. Although it is accepted that there is currently a double garage in this location and that vehicles travelling along the private drive will be doing so at low speeds, it is nonetheless considered that the access will result in an intensification of vehicle movements in this location. The new access will be used by the occupiers of the new dwellings (which given the level of parking provided could mean 9 new entering and leaving the site) and there will be additional vehicle movements associated with these such as delivery vans and refuse lorries. All of these additional movements have the potential to adversely affect the living conditions of both the existing dwelling, no. 59 and the adjacent property.

The second issue relates to overlooking. The new dwellings will have bedroom windows within the first floor front elevations. The interface distance to 59 is 22m but these windows will also look out across 59's rear garden thus preventing any sense of privacy to this area. The distance to no. 60 is only around 16m and whilst the view from the new houses is at an oblique angle and whilst no. 60 is a bungalow, there is still potential for overlooking of 60's rear garden. The distance to the rear of 57 is considered to be acceptable but again there is potential for overlooking of 57's existing private garden and the angle is not oblique as per the situation with no. 60. It is considered that all of these concerns stem from the location of the new dwellings in the rear garden of 59 and thus the issue of overlooking is intrinsically linked to the backland nature of the proposal.

PARKING PROVISION & ACCESS:

Although it is clear that West Sussex Highways have no objections in highway safety terms and that the proposed dwellings comply with the Councils parking standards, it would appear as though no regard has been had to the parking provision for the existing dwelling. It is unclear as to how many bedrooms the existing dwelling has but it is a large detached dwelling and it is considered likely that its internal size is comparable to that of the proposed new dwellings.

That being the case, it is considered that three parking spaces would be appropriate. However, the proposal results in the loss of a double garage and associated parking spaces and seems to

leave 59 with only a small area of hardstanding directly in front of the dwelling which may provide space for 1 maybe 2 cars at a push. This is considered to be insufficient and given that Elm Grove is suitable for on street parking, it is not clear how the parking shortfall would be met.

FLOOD RISK & DRAINAGE:

The very rear third of the garden lies in Flood Zones 2/3. However, the new dwellings are sited outside of this zone. The applicant has submitted a Flood Risk Assessment and the Environment Agency have responded to say that they have no objection. Furthermore, the Council's drainage engineers have raised no objection subject to conditions. Therefore, it is not considered that any objection on flood risk/surface water drainage grounds could be sustained at appeal.

It is acknowledged that local residents consider there to be an issue with the existing sewers in the street but in the absence of any objections from Southern Water, the Environment Agency or the Council's Drainage Engineers, it is not possible to raise this as a reason for refusal.

ECOLOGY:

This site borders with open countryside and there is no rigid boundary between the site and the adjacent fields. Therefore, there is potential for wildlife species to have moved into the site from the adjacent open land. Furthermore, it was clear from a site visit that the very rear of the garden is overgrown in places and therefore could provide useful wildlife habitat. Indeed, a fox was observed foraging in the unmanaged strip of land which lies between the garden and the cultivated fields.

The applicant submitted a biodiversity checklist with the application that makes it clear that the site has not been surveyed for any species or their habitats. This checklist suggests that little thought has been given to this issue. However, it is clear from the records of the Sussex Biodiversity Records Centre (SBRC) that a slow worm was recorded on the site in 2002 and that there have also been records within the local area of Corn Parsley, Grass Snakes, Slow Worms and bats. On this basis, it is considered that regard should be had to the value of the site for wildlife species and therefore a phase 1 habitat survey should have been provided.

INTERNAL & EXTERNAL SPACE STANDARDS:

It is necessary to assess the proposal against the internal space standards as set out in the Government's new Technical Housing Standards (Nationally Described Space Standard). The requirement for 2 storey, 4 bedroom, 6 person dwellings is 109m² and all three dwellings more than exceed this requirement.

In respect of external standards, it is necessary to have regard to Policy D DM3 of the emerging local plan (publication version) which has been approved by the Council for development management purposes and which will shortly be heard at an Examination in Public. With respect to the proposal the requirement for the new dwellings is for a rear garden of at least 10m in depth and 100m² in area. All three dwellings exceed this requirement. It is also necessary to assess the impact on the existing house. Although, it is not known how many bedrooms the existing dwelling has, it is safe to assume that it is a similar size to the proposed dwellings and therefore, the requirement would be the same. Although the depth is only 9.5m, the area also more than exceeds the requirement and therefore the garden to the existing dwelling is also considered to

comply.

SUMMARY:

Although there is no in principle objection to residential development in this location, it is clear that by siting dwellings in this garden, there is a significant impact on the character of the area. This manifests itself in terms of the location of the dwellings behind the established building line, the length of the plots/garden depths and the use of link detached dwellings. Furthermore, the location of the dwellings is considered to result in impacts on the amenity of neighbouring dwellings. It is also considered that the application has failed to have regard to the parking provision of the existing house or the ecological value of this site. It is therefore recommended that this application be refused for the following 5 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) 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

REFUSE

- 1 The site is considered unsuitable to satisfactorily accommodate four dwellings all with private amenity space without damaging the character of this established residential area. The proposal would therefore result in an unduly cramped and unneighbourly form of development which would be detrimental to the character and amenities of the surrounding residential area, contrary to policy GEN7 of the Arun District Local Plan, policy D DM1 of the Arun Local Plan 2011 - 2031 (Publication Version) and policies ES6

& H4 of the Barnham & Eastergate Neighbourhood Plan.

- 2 The proposal would constitute an unsatisfactory form of backland development which, together with the incidental use of the proposed means of access, would be unneighbourly and adversely affect the privacy and quiet enjoyment of neighbouring properties in conflict with policy GEN7 of the Arun District Local Plan, policy D DM1 of the Arun Local Plan 2011 - 2031 (Publication Version) and policies ES6 & H4 of the Barnham & Eastergate Neighbourhood Plan.
- 3 Insufficient information has been provided in respect of the parking arrangements for the existing dwelling (which will lose its existing double garage, the parking spaces in front of the garages and be left with only a small hardstanding area directly in front of the dwelling) and as such it is not considered that the proposal provides for adequate provision for the parking of vehicles in a satisfactory manner off the highway to the standard required by the Local Planning Authority in conflict with policies GEN7 & GEN12 of the Arun District Local Plan, policies D DM1 & T SP1 of the Arun Local Plan 2011 - 2031 (Publication Version) and policy GA4 of the Barnham & Eastergate Neighbourhood Plan.
- 4 The proposed dwellings would be detrimental to the amenities of the occupiers of the three adjacent properties by reason of the overlooking of rear private gardens and principal windows in conflict with policy GEN7 of the Arun District Local Plan and policy D DM1 of the Arun Local Plan 2011 - 2031 (Publication Version).
- 5 Insufficient information has been provided in respect of a phase 1 habitat survey which is required to properly assess the ecological potential of 59's rear garden which borders directly with open countryside and on which there has been a previous sighting of a protected species. As such it is not considered that the proposal is in accordance with policy GEN29 of the Arun District Local Plan and policy ENV DM5 of the Arun Local Plan 2011 - 2031 (Publication Version).
- 6 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.