

Recommendation Report for Planning Permission

REF NO: FG/141/19/PL

LOCATION: Elm Lodge
Tamarisk Way
Ferring
BN12 5ER

PROPOSAL: Erection of 1 No detached chalet style dwelling with integral garage; demolition of existing conservatory & porches & erection of single storey side extension & part single/part two storey side extension to Elm Lodge (resubmission of FG/220/18/PL).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Subdivision of the plot of an existing detached chalet bungalow and the erection of 1 No. detached chalet style dwelling with integral garage; demolition of existing conservatory & porches & erection of single storey side extension & part single/ part two storey side extension to Elm Lodge (resubmission of FG/220/18/PL).

The differences between the recently refused appeal and the current proposal for the new dwelling are:

- A pitched roof element of the earlier proposal has been removed and replaced with a hipped roof
- Both the large Juliet balcony and smaller Juliet balcony on the front elevation have been replaced with smaller dormer windows.
- A Juliet balcony on the eastern roof elevation has been replaced with a roof light.
- The 3 No. roof lights on the western elevation have been removed
- The sliding doors on the North side (rear elevation) have been replaced with a window.
- No habitable windows would now face 'Magalia' (now bathroom windows which would be obscure glazed and non opening up to 1.7m by condition)

Also as part of this re-submission are proposed changes (some of the proposals for FG/186/18/HH are being included with this re-submission) to the existing dwelling, Elm Lodge:

- The conservatory on the eastern side of the existing dwelling is to be demolished.
- The porches are also proposed to be demolished.
- On the western elevation a part single storey/ part two storey

extension is proposed

- The existing windows on the north-eastern elevation would be blocked up. A flat roof light is proposed for this dormer.
- A single storey element is proposed on the eastern elevation to square of the living room area.

3 on site parking spaces are proposed for each dwelling and it is also proposed to carry out the proposed works to both the existing and the proposed dwelling simultaneously.

Existing boundary conditions are to be maintained.

Proposed materials and features would match Elm Lodge
460 sq.m.

SITE AREA

RESIDENTIAL DEVELOPMENT 22 dwellings per hectare.

DENSITY (NET)

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

A 3 metre hedge and 2 metre close boarded fence to the front and side boundaries of the existing dwelling. 1 metre and 2 metre close boarded fencing to the rear boundary.

The boundary treatment proposed between Elm House and the proposed new dwelling would consist of a 1.8m high close boarded wooden fence with additional planting.

SITE CHARACTERISTICS

The existing site has a chalet bungalow with dormer roof extensions on a large site with a large garden to the front and sides with a driveway and attached garage to the rear. The proposed new dwelling would be located in what is effectively the primary amenity space of the dwelling house which is located to the front of the dwelling rather than to the rear.

The original bungalow has been subject of a planning approval FG/186/18/HH for significant extensions and refurbishment and a more recent proposal for a detached chalet bungalow which was dismissed at appeal.

A natural groundwater pond is located in the north-eastern corner of the site.

Elm Lodge site is larger than the surrounding sites.

CHARACTER OF LOCALITY

The site is within a residential area of primarily private housing estates consisting of a mixture of bungalows, chalet bungalows and two storey detached dwellings. The site overlooks open agricultural farmland to the front which is part of the Strategic Gap between Ferring and Worthing. The existing property is set back from the road side in a curve of the building line which, added to its proximity to farmland, provides an open character to the area.

RELEVANT SITE HISTORY

FG/27/73	Conservatory	ApproveConditionally 06-04-73
FG/186/18/HH	Demolition of existing porches and erection of single storey side extension and part single/part two storey side extension	ApproveConditionally 05-12-18
FG/51/05/	Extension to garage	ApproveConditionally 31-05-05
FG/76/02/	Proposed conservatory	ApproveConditionally 18-09-02

The existing property had a planning application approved to create extensions at ground and first floor level (FG/186/18/HH). This new application incorporates application FG/186/18/HH, with the only changes being the removal of the existing conservatory and all windows on the North East (side) elevation of Elm Lodge being blocked up.

This proposal is also a resubmission of FG/220/18/PL which was refused and dismissed at appeal (Appeal Ref: APP/C3810/W/19/3231473).

The previous proposal (FG/220/18/PL) was for the: Sub division of the plot of an existing detached chalet bungalow dwelling and the construction of a further chalet bungalow with substantial two storey elements in the existing garden of the original dwellinghouse providing 3 car parking spaces using an access way from Tamarisk Way.

The Inspector dismissed the appeal on the grounds that:

The main issue is the effect of the proposed development on the living conditions of the occupiers of the host property and neighbouring properties, with particular reference to overbearing impact and the effects on light and privacy.

The Inspector cited two reasons for dismissing the appeal on the above grounds:

1. Harmful loss of privacy to the occupiers of Magalia, due to the "position of first floor large floor-to-ceiling glazing serving Juliet balcony doors and French doors onto a balcony, both of which would serve primary bedroom windows and directly face the main private garden area of Magalia, resulting in materially harmful perceived overlooking into their garden".
2. Harmful overbearing impact on the occupiers of the host property, due to the proposed new dwelling's "overbearing impact on the primary habitable room windows on Elm Lodge's east elevation".

The Inspector stated that they had to 'base their decision upon the proposed description of development', which did not include the extant permission FG/186/18/HH. As such, the extant permission

FG/186/18/HH is now incorporated within this new application.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Ferring Parish Council

Ferring Parish Council maintain objection to development on the land on the eastern side of Elm Lodge due to continuing concerns over the potential adverse impacts on the vital natural drainage and dissipation value of that ground and pond not only to the site itself but also on the highway and junction with Sea Lane which has a history of surface water flooding. Any development here would not be in keeping with the current balanced visual harmony of the street scene on this junction constituting over development and would be detrimental to the outlook from the property immediately to the north (78 Sea Lane). No minor re-alignment of any additional garden in-fill property can alter the negative impact on the site and the street scene. Due to the location and natural elevations of the location, the proposed new property east of Elm Lodge would introduce windows overlooking the rear garden and conservatory of the property opposite to the south (known as 'Magnolia'). Magnolia has a well-used garden which is valued for its quiet, secluded family amenity space. This would be negatively impacted by the proposed new property, denying the residents of 'Magnolia' the secluded environment they currently enjoy. The first-floor windows on the eastern elevation of the proposed new development would be detrimental to the host property as they will overlook the currently secluded garden of that property (Elm Lodge), denying future residents the privacy of the existing garden space which is generally a feature of properties in the area. All conditions from the previous application ((FG/220/19/PL) need to be taken into consideration and applied to this application, particularly in respect of the ground water issues and preservation of the pond and its vital natural drainage functions.

Ferring Conservation Group- Ferring Conservation Group

-Objection on the following grounds:

- The Inspector's decision in the recent appeal was that 'The appeal proposal would result in a harmful overbearing impact on the occupiers of the host property and a harmful loss of privacy to the occupiers of Magalia' .

The appellant's revised application (FG/140/19) is hardly different from the application which was refused by the Council and dismissed on the appeal. The layout of the building is almost the same and it is just as close to the host dwelling. Changes in the arrangement of windows do not change the proximity of the buildings and cannot avoid the cramped and overbearing nature of the development.

Nor is the impact on Magalia significantly reduced. This application should be refused.

Neighbour objections

23 emails and letters of objection with the following summarised points:

- The revised application is hardly different from the original proposal which was refused and dismissed at appeal
- The layout is the same and it is just as close to the host dwelling.
- The buildings would still be cramped & overbearing
- The impact on Magalia is not significantly reduced
- Alterations to South facing windows using obscure glass with non-operable windows does not guarantee long term privacy.
- Since no further relocation of the proposed property appears possible, its proximity to the drainage channel, pond and west side boundary fence (only 1.5m from the host property) remain unresolved.
- The sheer size of the proposed property would dominate the street scene of Tamarisk Way and its surrounds. The Inspectorate drew clear attention to the proposed property's impact on Magalia in

particular and was a major reason for the appeal's dismissal.

- The threat of flooding from the surface water drainage pond, as we and others have previously indicated.
- The proposal should be refused on the previous grounds for refusal
- Lack of garden space for Elm Lodge
- The new house would be out of character with properties in Tamarisk Way
- The exit onto Sea Lane would be dangerous
- The existing flooding would be made worse
- The previous reasons neighbours had for objecting to this proposal still stand
- Any damage to the natural village drainage system which the pond is a part of would seriously damage its ability to clear water from this area of Tamarisk Way

COMMENTS ON REPRESENTATIONS RECEIVED:

The objections from the Parish Council, Ferring Conservation Group, neighbours objections are addressed in the conclusions section to the report below

CONSULTATIONS

Parks and Landscapes

Engineers (Drainage)

Engineers (Drainage)

WSCC Strategic Planning

Environmental Health

CONSULTATION RESPONSES RECEIVED:

Environmental Health- No objections subject to the imposition of conditions relating to hours of construction and light spillage avoiding statutory nuisance

WSCC Highways- No objections subject to the imposition of a condition and an informative should permission be granted.

Parks & Landscape- No comments received

Engineers (Drainage)- No objections on the basis that a number of conditions are added to any permission, if granted.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in the Conclusions section below

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

CLASS C ROAD

DEVELOPMENT PLAN POLICIES

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

DDM1

D DM1 Aspects of form and design quality

DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVSP1	ENV SP1 Natural Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

Ferring Neighbourhood Plan 2014 Policy 10	Sustainable water management
Ferring Neighbourhood Plan 2014 Policy 1A	A Spatial Plan for the Parish

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The 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.

Policies 1A and 10 of the Ferring Neighbourhood Plan are considered relevant to 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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining properties.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

The site lies within the built up area boundary where the principle of residential redevelopment is acceptable. Policy SD SP2 of the Arun Local Plan and Policy 1A of the Ferring Neighbourhood Plan state that development should be focused within the Built Up Area Boundaries and will be permitted, subject to consideration against other policies of the Local Plan.

The key policy considerations in the determination of this application are policies D DM1, D DM2, D SP1, and T SP1 of the Local Plan, policy 1a of the Ferring Neighbourhood Plan (FNP) and the NPPF.

Policy 1A of the FNP states that proposals will only be supported, provided they are suited to an urban setting and they accord with the provisions of the Neighbourhood Plan and with other relevant development plan policies.

DESIGN AND VISUAL AMENITY

Policy D DM1 of the Arun Local Plan 2011-2031 (ALP) requires that the Council have regard to certain aspects of design including character, appearance/attractiveness, density and scale relative to this application.

Furthermore, policy D SP1 "Design" states that all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details.

Para. 122 and para.123 of the National Planning Policy Framework (NPPF) support development that makes efficient use of land.

Density

The Government within National Planning Policy encourages the efficient use of land. Whilst the density of the proposal is higher than that found on the immediate set of properties neighbouring the application site along Sea Lane, it does accord with the density of development along Tamarisk Way.

Building Line

The proposed development would be located within the build line on the Sea Lane and Tamarisk Way frontages and this is considered acceptable and in character with the street scene.

Design/materials

The modern design of the previous proposal has been changed somewhat which would reduce its prominence in the street scene. The pitched roof of the west elevation has been changed to a hipped roof and the number of Juliet balconies has been reduced along with the level of glazing. The proposed materials do not fit in with the traditional cottage style reds and browns of neighbouring properties set by clay tile roofs, hanging tiles and red brick. The proposed materials of construction are not atypical of other developments within the Ferring Area however. In addition planning approval for similar materials and a dwelling of a similar scale was granted at Elm Lodge (FG/84/18/HH) and therefore the proposed materials would not significantly alter the character of the local area.

Siting

Although the roof nearest Elm Lodge has been changed to a hipped roof, due to the necessity to locate the property a prescribed distance from the pond the proposed dwelling would have a cramped appearance on the site in relation to the existing dwelling Elm Lodge. The cramped dwellings would be visible from a considerable distance from the south along Sea Lane and would have an unacceptable impact on the visual amenities of the surrounding area.

Character

The house design of properties fronting Sea Lane are of varying character and therefore, in this regard, what is proposed has an acceptable impact on the street scene. A number of objectors raise concern that the gap currently in existence between Elm Lodge and Sea Lane will be erased as a result of the siting of the property. Whilst this is true the impact that this will have on the character and appearance of the locality is acceptable. This is due to the fact that the site benefits from screening from a fence and general vegetation as well as noting that there are a number of cases along Sea Lane, in close proximity to the application site, where dwellings are a similar distance from the Highway.

In summary, the impact on the visual amenity in the area including the street scene on Sea Lane and Tamarisk Way is acceptable and complies with policies D SP1 and D DM1 of the Arun Local Plan.

RESIDENTIAL AMENITY

Arun Local Plan 2011-2031 policy D DM1 requires that the Council have regard to certain aspects when considering new development including impact on neighbouring residential amenity.

Para. 127 f) of the National Planning Policy Framework states that new housing developments should provide 'a high standard of amenity for existing and future users'

The original dwelling on the application site Elm Lodge would have a front elevation separated by between 3-5 metres from the side elevation of the new dwelling. In this proposal the Elm Lodge conservatory would be deleted and the ground and 1st floor windows on the eastern side of Elm Lodge have been covered up so the proposed new dwelling would no longer cause unacceptable overlooking onto habitable space on the east side of Elm Lodge.

The proposed dwelling has a length of approx. 14m at a distance of 1m from the common boundary with Elm Lodge. At an eaves height of 2.3m and ridge height of 7m in such close proximity would result in an overbearing effect on the occupiers of Elm Lodge by way of the proposed building height, mass, and proximity to the host property. Efforts have been made to overcome the Inspectors reason for refusal in terms of overlooking but it is not felt the changes made are enough to overcome this previous reason for refusal in terms of overbearing and unneighbourly effects on the residents of Elm Lodge.

The proposed new dwelling would be approximately 13 metres from the side elevation of 78 Sea Lane. However, the lack of primary habitable room windows at first floor level of the proposed dwelling means that there would be no adverse overlooking and the distance from the boundary is sufficient to prevent overbearing impact and loss of daylight and sunlight on 78 Sea Lane.

The chalet bungalow opposite (Magalia) has a similar layout to the existing dwelling, Elm Lodge such that the primary garden space is located to the front of the dwelling facing onto Sea Lane. The cumulative impact of these dormer windows for bedroom 3 and the master bedroom at a distance of 15 and 18 metres respectively from Magalias garden area would be unacceptable. Magalia's primary garden area is currently not overlooked at all. The proposal would cause an unacceptable loss of privacy to this amenity space.

SPACE STANDARDS

Internal

Policy D DM2 of the ALP seeks to ensure adequate internal space standards in new dwellings in accordance with guidance within the Nationally Described Space Standards part of National Planning Policy Guidance.

The proposed dwelling has in excess of 190 sq. m. of internal space. 102 sq.m. is specified within the Nationally Described Space Standards for a 3 bedroomed dwelling. The proposal therefore complies with policy D DM2 of the Arun Local Plan with respect to internal space standards.

External

External Space Standards are not subject of specific policies within the Arun Local Plan or Ferring Neighbourhood Plan. The proposed dwellinghouse would have a rear garden facing toward 78 Sea Lane to the north with a maximum depth of approximately 7.5 metres. However given the additional garden space to the east elevation of the development and potential amenity space created as a result of overdecking the pond, it is considered that the amount of outdoor amenity space provided is acceptable.

DRAINAGE AND FLOODING

Policy 10 of Ferring Neighbourhood Plan states development proposals likely to affect surface water drainage will be supported, provided they are able to demonstrate that they include sustainable drainage design features.

It is acknowledged that there has been significant complaint and warning with respect to drainage and flooding issues at the site. Drainage is however a technical issue and subject to conditions imposed requiring monitoring and mitigation measures. It is the view of the Arun District Council Drainage Engineers that the proposed development would be acceptable and adequately addresses flooding issues.

The proposal is therefore compliant with policy W DM3 of Arun Local Plan and policy 10 of Ferring Neighbourhood Plan.

PARKING AND HIGHWAY SAFETY

Arun Local Plan 2011-2031 Policy T SP1 seeks to ensure that development does not have a severe impact on the highway network, provides adequate parking and promotes sustainable transport.

Regard should also be had to paragraph 109 of the NPPF which 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."

The scheme provides sufficient space for the parking of 3 cars including an internal garage. Using the West Sussex Car Parking Demand Calculator it is estimated that the car parking requirement is for 3 car parking spaces.

West Sussex County Council Highways Department have assessed the scheme and considers that the proposal would not have a severe impact on the highway network and have no objection to the scheme subject to a condition on car parking space.

It is therefore considered that the proposal is in accordance with policy T SP1 of the Arun Local Plan.

BIODIVERSITY

Policies ENV DM1 and ENV DM5 relating to the natural environment and development and biodiversity apply to this development.

The applicants have filled in the biodiversity checklist and indicated that no protected species exist n the site

The development should have regard to Natural England's standing advice for protected species in the event of the development being approved. Relevant informatives would be applied to any approval of planning permission.

NOISE, LIGHT AND AIR POLLUTION

The proposed development would be unlikely to have any significant impact upon noise, light and air pollution over and above existing dwellinghouses in the vicinity of the site and it is therefore considered to comply with policies QE DM1, QE DM2 and QE DM3 of the Arun Local Plan.

SUMMARY

For the above reasons it is recommended that the application is refused for the following reason:

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

- 1 The proposed new dwelling would have an unacceptable impact on the residential amenity of neighbouring properties including the host dwelling in terms of overbearing impacts and loss of privacy contrary to policy D DM1 (3) of the Arun Local Plan and policy 1A of the Ferring Neighbourhood Plan.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. 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.