

Recommendation Report for Planning Permission

REF NO: FG/142/21/PL

LOCATION: Land North of Highdown Vineyard
(Formerly McIntyre Nursery)
Littlehampton Road
Ferring
BN12 6PG

PROPOSAL: Change of Use of the land for the storage of building materials; 2 no. proposed storage containers and 2.4m high Pallisade or Paladin fencing (coloured green) to perimeter with access gates. This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The application is for part-retrospective planning permission for use of the land for storage as some of the land is already being used for storage. The proposal consists 2 storage containers for dry materials, a tile storage area and a general building materials storage area. The containers would be corrugated metal shipping containers with a length of 6.096m, a depth of 2.4m and a height of 2.6m. The proposals include the installation of 2.4m high green painted metal Palisade or Paladin fencing to the northern boundary of the site and double vehicular security gates to the eastern entrance. The access road would run from the east of the site up beyond AVS Fencing and then down into the site.
SITE AREA	0.14 hectares.
TOPOGRAPHY	Predominantly flat, sloping gently downward to the south.
TREES	Significant on and off site trees.
BOUNDARY TREATMENT	Established trees on southern and western perimeter of site.
SITE CHARACTERISTICS	The site consists of a piece of land, with a mix of grassy/scrub areas, and no existing structures in place, with established trees on the southern and western perimeter. It was last in horticultural/agricultural use as part of the former 'McIntyres Nursery'. It is currently being partly used for open storage of pallets, timber, tiles and building materials and the application form indicates this use started in Jan 2016. It is accessed off an existing un-adopted, private, gravel and earth road to the west which joins with the main access road to businesses to the east including AVS Fencing.
CHARACTER OF LOCALITY	The area has a mixed character. It is located within the designated Countryside and Settlement Gap so has a partly rural character with plots of land and open fields to the south, west and north. There are also adjacent

commercial/industrial/horticultural uses; including B8 storage and wholesale supply of fencing (AVS Fencing and Landscaping Supplies), a self-storage site (Standby Self Storage Worthing), a scaffolders storage yard, a mechanics workshop (PJ Autos), offices at the Highdown House site and former horticultural glasshouses at The Chalet.

Adjacent sites:

FG/160/05 (land at Highdown Farm/Highdown Garden Centre)

Change of use of redundant horticultural packhouse to B1/B8 (Business/Storage/Distribution) use.

Approved 15/03/2006

FG/59/10 (AVS Fencing site)

Change of use from former agricultural nursery to B8 storage and wholesale supply of fencing and associated materials

Officer recommendation refusal

Committee approval 15/09/2010

FG/149/14/PL (Land to west of FG/160/05)

New storage facilities for existing scaffold yard and firewood yard (related to landscaping contractors). Replace structures to be demolished.

Approved 17/12/2014

FG/190/16/PL (Highdown House site)

Application for removal of condition 3 following a grant of planning permission FG/129/00 relating to the restrictive use of the ancillary office accommodation to the needs of agriculture, horticulture forestry and for no other purpose.

Approved 01/02/2017

FG/56/18/PL (Old Grain Silo)

Change of use & conversion of existing grain silo (Sui Generis) to office space (B1(a) Business) with associated parking.

Approved 15/11/2018

FG/33/18/PL (Standby Self Storage site)

Demolition of polytunnels, use of land for Class B8 container self-storage & the siting of 42 No. single-stacked storage containers, an office/toilet portable building, new fencing, gates, CCTV, lighting & alterations to the entrance.

Approved 03/10/2018

FG/74/19/PL (North of Highdown House)

2 No. commercial B1/B8 use buildings with associated car parking, access & refuse storage

Refused at Committee

Allowed on appeal 01/07/2020

This had been refused on grounds of harm to the strategic gap and harm to the setting of the National Park & Highdown Hill. The Inspector considered that due to the presence of other buildings nearby and tree screening, there would be no harm to the strategic gap and no harm to the setting of the SDNP or Highdown Hill.

FG/123/20/PL (Land same as FG/149/14/PL)

Demolition of a polytunnel, storage building & scaffolders' shelters & racking, use of land for Class B8

container self-storage & the siting of 79 No. single-stacked storage containers, part regrading of the ground, new fencing, CCTV & lighting.

Officer recommendation approval

Committee refusal

Allowed at appeal 04/02/2021

This had been refused due to harm to the strategic gap. The Inspector stated there would be no visual impact as the storage containers would be no higher than existing structures on site and there would be no harm to heritage assets due to the distances involved.

REPRESENTATIONS

Ferring Parish Council -
Objection.

Site is agricultural, outside Built-up Area Boundary (BUAB), is designated Countryside and within the Angmering-Worthing Settlement Gap. To the east, area has been subject to numerous planning applications claiming infilling existing commercial sites, but this argument does not apply in this case. Any change of use would constitute a breach of any perceived commercial site boundary and a damaging incursion into the designated agricultural land/countryside of the Angmering - Worthing Settlement Gap. This site sits on the southern slope of Highdown Hill, a National Trust site of historical and archaeological significance on the edge of the South Downs National Park (SDNP). There must be a limit to this decimation of and incursion into the valuable countryside remaining here and the often cited perceived boundary for commercial infill applications must not be pushed further west.

9 letters of objection have been received, summarised as follows:

- Site outside BUAB, in Countryside, agricultural land, proposal is departure from Development Plan.
- No material considerations which override conflict with Development Plan as the development has no lawful connection to existing businesses in or near this site.
- Current boundaries of commercial development must not be allowed to push further into the countryside.
- Cumulative affect of actual and proposed storage areas and containers on the remaining rural character of this part of the Angmering-Worthing Settlement Gap, Highdown Hill heritage site and landscape of the South Downs National Park (SDNP).
- Essential area for the environment and nature.
- Concerns about more HGVs using perimeter track and unsatisfactory junction with busy Littlehampton Road, traffic and turning hazard, congestion on A259.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed in Conclusions section of report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ARCHAEOLOGY OFFICER:

No objection.

It is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal or the requirement of other mitigation measures would be justified. The application site may be just visible from the top of the rampart of the hillfort (Highdown Hill Scheduled Ancient Monument) near its centre, but is not at all visible from anywhere within it and is obscured by the slope of the hill from anywhere below (outside of the rampart). The effects of the proposed development on the

setting of the monument would be less than substantial. If the containers and fence were to be painted dark green they would probably be barely noticeable amongst the existing trees and hedges.

ECOLOGY OFFICER:

No Ecological Impact Assessment appears to have been submitted with the application/on file and request this. From the habitat seen in the site photos and nearby records (NBN Atlas) there is potential for protected species to be impacted by the development.

ENVIRONMENTAL HEALTH OFFICER:

No objection.

Recommend planning conditions; standard construction hours and Construction Management Plan, and informatives regarding burning on site and statutory nuisance.

WSCC HIGHWAYS:

No objection.

No unacceptable impact to highways safety or capacity and operation of the highway network. Suggest planning condition to secure parking and turning area on site.

TREES OFFICER:

No objection.

Recommend planning conditions; to ensure protective fencing is inspected and 'fit for purpose' and all activity on site to be undertaken in strict accordance with approved Tree Survey and Report.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:
 Outside Built-Up Area Boundary
 Designated Countryside
 Settlement Gap
 Prone to groundwater flooding
 TPO
 Area of Special Control (Adverts)
 Article 4 Direction
 Highdown Hill Ancient Scheduled Monument (north of site)
 South Downs National Park (north of the site)
 Highdown Hill Conservation Area (north of the site)
 Highdown Listed Building (north of the site)

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
SDSP2	SD SP2 Built-up Area Boundary
SDSP3	SD SP3 Gaps Between Settlements
EMPDM1	EMP DM1 Employment Land: Development Management
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design

LANDM1	LAN DM1 Protection of landscape character
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
HERDM6	HER DM6 Sites of Archaeological Interest
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment

[Ferring Neighbourhood Plan 2014 Policy 10](#)

Ferring Neighbourhood Plan 2014 Policy 1A

Ferring Neighbourhood Plan 2014 Policy 7

Sustainable water management

A Spatial Plan for the Parish

Land north of Littlehampton Road, encouraging of existing rural businesses

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

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

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 policies contained within the Ferring Neighbourhood Development Plan (made 2015) are relevant in the determination of this planning 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."

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.

Para 12 of the NPPF states that "Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."

The proposal conflicts with Development Plan policies in that it would represent inappropriate development within a Countryside and Settlement Gap location on agricultural/horticultural land which is currently open, and where it has not been demonstrated it could be located elsewhere on an alternative site, and there has also been a failure to demonstrate that there would be an acceptable impact on ecology including legally protected species.

Section 11A(2) of the National Parks and Access to Countryside Act 1949 is relevant:

"In exercising or performing any functions in relation to, or so as to affect, land in any National Park, a relevant authority shall have regard to the purposes specified in subsection (1) of section 5 of this Act and if it appears there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park"

Section 5(1) states:

"The provisions of this Part of this Act shall have effect for the purpose - (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified .. and (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public"

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Where the building is located in a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to comply with this legislation, taking into account the nearby commercial development and the distances involved, it would not have any substantial affect on the setting of the Highdown Listed Building or Conservation Area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan, as set out in the Conclusions section of this report, but that these do not outweigh the conflict with the Development Plan.

CONCLUSIONS

KEY ISSUES:

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

- Principle of development/use of site
- Visual, landscape and heritage impact
- Ecology impact

PRINCIPLE OF DEVELOPMENT:

The site is located outside of the Built-up Area Boundary (BUAB) within the designated Countryside. The site is also within the designated Settlement Gap between Worthing and Angmering. The site is just to the south of the boundary with the South Downs National Park (SDNP) and Highdown Hill heritage site (National Trust) is just to the north. The proposals are for use of the land for storage for building materials associated with the building trade.

Arun Local Plan (ALP) policy SD SP2 seeks to focus new development within settlement boundaries (BUABs) and policy C SP1 only permits development outside of the BUABs in the designated Countryside where it meets certain criteria which justify a countryside location. This includes C SP1 (f) in accordance with other policies in the Plan which refer to a specific use or type of development.

Policy EMP DM1 is one such policy in the Plan which refers to a specific use or type of development; Employment Land. Under EMP DM1 Section 6 'Economic growth outside the Built-Up Area Boundary' it states that planning permission will be granted for sites outside the built-up area, provided that the proposal demonstrates (in summary);

(a) That it is an appropriate sized extension of an existing employment site, or no acceptable alternative can be identified within existing permitted or allocated sites, or within or through redevelopment of existing commercial premises, and that it has acceptable impacts on public access routes and highways (b), high standard of design, layout and landscaping (c), accessible by means other than private car if employment intensive uses are proposed (d), access and parking would accord with Council's standards (e), a sympathetic relationship to the surrounding areas that shows consideration of the landscape, habitat, built and historic environment contexts, the opportunities to deliver on-site habitats and protect key species (f), acceptable impact on neighbouring amenity (g), and crime prevention is incorporated (h).

ALP policy SD SP3 states that the generally open undeveloped nature of the Settlement Gaps will be protected and development will only be permitted where it (a) would not undermine the physical and/or visual separation of settlements, (b) would not compromise the integrity of the gap, (c) cannot be located elsewhere, (d) maintains the character of the undeveloped coast and (e) has not been allocated.

Policy 1A of the Ferring Neighbourhood Development Plan (FNDP) states that "Proposals for development located outside of the built up area boundary that do not accord with development plan policies in respect of the control of development in the countryside will be resisted." This policy acknowledges the constraints on development imposed by the significant landscape and heritage sensitivity of:

- the South Downs National Park, the Highdown Hill national heritage asset and their respective

landscape settings;

- the rural land to the north of Littlehampton Road;
- the precious Strategic Gaps that separate Ferring from East Preston and Worthing;

Policy 7 of the FNDP states that in respect of land to the north of Littlehampton Road "The Neighbourhood Plan will resist any proposals for a change of use from an established agricultural, horticultural or equine use or any other unrelated uses." It also states (v) Development will be permitted in exceptional circumstances for example, if it is essential to meet utility infrastructure needs and no alternative site is available.

The lawful use of the land in question is agricultural land (since it formed part of the former 'McIntyres Nursery' site). According to the Agriculture Act 1947 the definition of agriculture "includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly".

The proposal for development within this Countryside/Settlement Gap location is unacceptable in principle, and resisted by ALP policies SD SP2, C SP1, EMP DM1 and SD SP3, and FNDP policies 1A and 7, unless justified by the exception tests set out in ALP policies C SP1 (f), EMP DM1 (Section 6) and SD SP3, for countryside/gap development.

The proposals would not meet the exception tests of policy EMP DM1, justifying employment sites outside BUABs, given the failure of the application to demonstrate:

- (a) that no acceptable alternative can be identified within existing permitted or allocated sites, or within or through redevelopment of existing commercial premises;
- (c) a high standard of design...and landscaping appropriate to the context.
- (f) a sympathetic relationship to the surrounding areas which shows consideration of the landscape...and historic environment contexts....opportunities to deliver on-site habitats and protect key species

This is detailed more below under the Visual Amenity and Ecology sections of this report.

In respect of policy SD SP3, it is concluded that the proposals, given their scale and surrounding nearby commercial/industrial development to the east, would:

- (a) would not undermine the physical and/or visual separation of settlements
- (b) would not compromise the integrity of the gap, either individually or cumulatively with other existing or proposed development, and
- (d) would maintain the character of the undeveloped coast.
- (e) has not been allocated through a subsequent DPD or NDP.

However, the application fails to demonstrate that:

- (c) it cannot be located elsewhere.

As such, the proposal fails to meet exception test (c) of policy SD SP3 for development within Settlement Gaps and is therefore not justified in this location.

It fails to meet FNDP policy 7 tests, including where (v) no alternative site is available.

The Planning Statement does set out why this is the desired location; given the land owner runs a construction business, requires storage for reclaimed building materials, cannot afford to rent storage in the area, and that the site is perfectly located for their business needs for their contracts within the area. However, this is not considered sufficient justification and there is no evidence that this development could not be located elsewhere and that there are no acceptable alternative sites available.

The proposals are found to be contrary to the Development Plan policies (ALP C SP1, EMP DM1 and SD

SP3 and FNDP 1A and 7) for Countryside and Settlement Gap development, and for change of use of established agricultural/horticultural land north of Littlehampton Road to unrelated uses. It is acknowledged that there are existing and permitted commercial/industrial uses directly to the east of the site. However, there exists a clear boundary to this developed commercial/industrial area to the east, and the application site is located beyond and sits outside of that developed area, to the west of it. This site is not an area of existing uses or structures, unlike the nearby adjoining sites for which planning permissions have been granted for change of use from agricultural to commercial storage/office uses. The lawful use of the land is agricultural/horticultural (as part of the former McIntyres Nursery), contains no existing structures or uses, and is essentially open undeveloped countryside. As such, taking into account permissions on nearby land, there are no other material considerations in this case which indicate a determination should be made otherwise than in accordance with the Development Plan. It is therefore concluded that the development in this location is unacceptable in principle.

VISUAL AND LANDSCAPE IMPACT:

Para 174 of the NPPF (2021) states decisions should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Para 130 requires that applications for developments (b) are visually attractive as a result of good architecture and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting. Para 134 states "Development that is not well designed should be refused".

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including; character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees and crime prevention. ALP policy LAN DM1 states that development should respect the particular characteristics and natural features of the relevant landscape character areas. Policy QE DM2 requires that proposals which include outdoor lighting must be accompanied by a lighting scheme and that there should be no adverse impacts on the wider landscape, particularly with regard the SDNP International Dark Sky Reserve designation. EMP DM1 states that development of employment sites outside the BUAB require (c) a high standard of design...and landscaping appropriate to the context and (f) a sympathetic relationship to the surrounding areas which shows consideration of the landscape...and historic environment contexts....opportunities to deliver on-site habitats and protect key species.

Policy 7 of the FNDP states that in respect of land north of Littlehampton Road (which this site is)

- (a) Any development shall minimise visual impacts on the surrounding countryside.
- (b) All new buildings are located as part of the existing clusters of buildings to ensure existing patterns of development are maintained and to avoid significant incursions into open countryside, wherever possible unless details show an improved siting.
- (c) Suitable measures are proposed to improve the setting and / or screening of the development within its wider setting of the National Park.
- (d) Where appropriate, proposals shall be accompanied by drawings or other images showing impact of the proposed new development from key vantage points in the surrounding open countryside.

The supporting text to policy 7 of the FNDP states that "This policy enables the effective management of development proposals in the designated policy area between the A259 Littlehampton Road and the boundary of the South Downs National Park in order to protect the setting to the Park and the designated Highdown Hill heritage asset." and that "the policy resists a change of use of the established uses....as the policy area is not suited in principle to these uses. The visual impact of development will be harmful to the setting of the National Park and to the scheduled ancient monument of Highdown Hill, the boundaries of which lies to the immediate north".

It is acknowledged that there are existing and permitted commercial/industrial uses directly to the east of

the site. However, these uses are mainly physically enclosed and visually screened with tall trees and there exists a clear boundary to this developed commercial/industrial area to the east, and the application site which is located beyond and sits outside of that developed area or 'cluster', to the west of it. The lawful use of the application site is agricultural/horticultural (as part of the former McIntyres Nursery), it contains no existing structures or uses, and is essentially open undeveloped countryside. To the south, north-west and north of the site there are open undeveloped fields. No screening or landscaping is proposed under this application.

Given the lack of boundary treatment and proposed screening and the fact the land slopes down towards the south, the northern side of the site is and would be exposed to far reaching views from the South Downs National Park. The proposals would result in an encroachment and intrusion into open countryside, would fail to have a sympathetic relationship to the surrounding landscape and historic environment, and would have an adverse visual impact on the character of the surrounding countryside and the landscape setting/views into and out of the South Downs National Park. The proposals are therefore contrary to policies D SP1, D DM1, LAN DM1, EMP DM1 of the ALP, policy 7 of the FNDP and the NPPF.

HERITAGE:

Arun Local Plan (ALP) policy HER SP1 states development likely to prejudice heritage assets and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. HER DM3 requires that proposals preserve or enhance the character or appearance of Conservation Areas and their settings. Policy HER DM6 states that where development will have an indirect impact on the setting of an Scheduled Ancient Monument it will only be permitted where certain criteria are met. The NPPF provides guidance on how to determine impacts on heritage assets.

Para 194 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 195 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is no harm, 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance any harm with the level of public benefits associated with the proposal (as set out in para 202) "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal".

The supporting text to policy 7 of the FNDP states that "This policy enables the effective management of development proposals in the designated policy area between the A259 Littlehampton Road and the boundary of the South Downs National Park in order to protect the setting to the Park and the designated Highdown Hill heritage asset." and that "the policy resists a change of use of the established uses....as the policy area is not suited in principle to these uses. The visual impact of development will be harmful to the setting of the National Park and to the scheduled ancient monument of Highdown Hill, the boundaries of which lies to the immediate north".

The site is located to the south of Highdown Hill Scheduled Ancient Monument, and to the south and west of the Highdown Conservation Area (around 240m away) and Highdown Listed Building (around 340m away).

The Council's Archaeology Officer has advised that; The application site may be just visible from the top of the rampart of the hillfort (Highdown Hill Scheduled Ancient Monument) near its centre, but is not at all visible from anywhere within it and is obscured by the slope of the hill from anywhere below (outside of the rampart). The effects of the proposed development on the setting of the monument would be less

than substantial. If the containers and fence were to be painted dark green they would probably be barely noticeable amongst the existing trees and hedges.

Since a planning condition could be applied to secure that the fencing and containers should be painted dark green to blend in with the surroundings, the negligible impact on the SAM would be acceptable and accord with the NPPF, ALP policies HER SP1 and HER DM6 and FNP policy 7.

In respect of the Conservation Area and Listed Building, in both recent appeal decisions (which concerned land closer to the Conservation Area and LB), Inspectors stated there would be no appreciable harm to the setting of the heritage assets due to distance, the intervening screening and the containment of development within the identified boundaries of the site.

Given the site is further away than the closest of the two appeal sites, that the development is in the existing boundaries and that there is some level of screening, there can be no argument that this proposal would have a different level of impact on the Conservation Area and Listed Building and therefore there is no harm. The proposals would thus accord with the NPPF, policies HER SP1, HER DM1 and HER DM3 of the ALP and FNP policy 7.

ECOLOGY:

In terms of legislation, development will need to avoid impacts on legally protected species, and where this is not possible, mitigation or compensation will be necessary and a Licence from Natural England may be required. Paras 174 and 180 of the NPPF indicates that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the Environment Bill and the NPPF. ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

The Council's Ecology Advisor has been consulted on the application. They confirmed that, from the habitat seen in the site photos and nearby records (NBN Atlas) there is potential for protected species to be impacted by the development. No Ecological Impact Assessment has been submitted with the application. A Phase 1 Extended Habitat Survey (and further species specific surveys and mitigation strategies as appropriate) is required prior to a determination being made on the application and a planning condition cannot be used to secure these details, since the potential presence for protected species on site and mitigation strategies goes to the heart of the acceptability of planning permission being granted. As such, due to a lack of information there has been a failure to demonstrate that protected species and ecology would be protected from development, in conflict with the legislation, the NPPF and ALP policy ENV DM5.

RESIDENTIAL AMENITY:

Para 130 (f) of the NPPF states development should have a high standard of amenity for existing and future users.

Policy D DM1 of the ALP states 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. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. Policies QE DM1, QE DM2, QE DM3 and QE DM4 relate to noise, light, air and land pollution and the need for impacts from development to be controlled.

The ADC Design SPD includes detailed guidance on the protection of residential amenity, including setting out the required distances between properties to accord with the 45 and 25 degree tests for

daylight, sunlight and overlooking (Section G.03), required separation distances between habitable rooms to ensure privacy (Section H.04), measures to maintain privacy (Section J.02) and minimisation of impacts of noise and overshadowing (Section J.06).

The structures are single storey, located some distance from neighbouring properties and the site is well screened from those neighbouring properties. And such, the structures would not have a detrimental impact on the outlook, light or privacy levels of the nearest residential properties.

Environmental Health have raised no objection to the application and have recommended planning conditions to control construction hours and secure a Construction Management Plan to ensure an acceptable impact on local residents. Given the nature of this development i.e. only 2 storage containers and the rest open storage it is considered unlikely that a CMP would be required in this instance, and if so only one in respect of any access road changes to ensure acceptable construction work impacts on neighbours.

Access to the site would not be directly past or immediate to any residential properties (apart from Whiteways Cottage which is already on corner of Littlehampton Rd and access road) and would utilise the existing access road that runs from Littlehampton Road to PJ Autos, Standby Self Storage, AVS Fencing etc. where there are already businesses. Only 2 storage containers are proposed and given the proposed area of storage on the land the use is not considered to be particularly intensive generating a lot of activity and traffic in comparison to the nearby businesses. The site itself is some distance from nearest neighbouring properties. As such, it is concluded that the proposals would not result in an unacceptable level of noise and disturbance or impact on air quality to the nearest residential properties and would protect the residential amenity of these occupants, in accordance with the NPPF, ALP policies D DM1, QE SP1 and QE DM1. External lighting could be controlled by planning condition to ensure an acceptable impact on local residents, in accordance with ALP policy QE DM2.

HIGHWAYS AND PARKING:

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

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies "The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking". ALP policy T DM1 requires development to make provision for facilities for sustainable modes of transport such as cycling, to meet the parking standards, including cycle storage. The ADC Design SPD (Sections I.01, I.02 and I.03) includes guidance on the provision and design of car parking, electric vehicle bays and charging points, and cycle parking. The ADC Parking SPD sets out car and cycle parking standards.

The Local Highways Authority (WSCC) have raised no objection to the application. The current application proposes access via Highdown Nursery, an established access road that serves a number of commercial uses including fencing supplies and self storage. The geometry of the access and length before the internal access road split appears sufficient for anticipated vehicles. There appears to be no visibility issue on the dual carriageway (Littlehampton Road) which is subject to a 50mph speed restriction in this location. An inspection of road accident data reveals no pattern of incidents related to the existing site access. The LHA raise no highway network capacity issues in respect of the proposed 2

storage containers and it is expected to result in minimal additional vehicle movements. The plans do not indicate where vehicles will park and turn within the site, though it appears there is ample space for this.

In conclusion, the proposals would provide suitable and safe site access, and would not have an unacceptable impact on the safety and operation of the highway network. As such, the proposals accord with the NPPF and ALP policy T SP1. A planning condition could be used to secure details and implementation of on-site car parking and vehicle turning areas, to ensure compliance with ALP policies T SP1 and T DM1 and the ADC Parking SPD.

DRAINAGE:

The NPPF seeks to direct sensitive development away from areas at highest flood risk. ALP 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. ALP policy W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The ADC Design SPD (Section K.04) requires that development incorporate Sustainable Drainage Systems (SUDs) and flood risk mitigation. Policy 10 of the FNDP states that "Proposals for development that are able to demonstrate that their sustainable drainage design features will be effective in managing the risk of surface water flooding within and beyond their boundary will be supported".

The site is in EA Flood Zone 1 (lowest risk of flooding) and is not in any formally designated sensitive drainage area but mapping suggests this area is prone to groundwater flooding. The Plans do not show any new hardstanding proposed, however the inclusion of 2 storage containers and storage of materials would increase the impermeability of the site and its ability to drain surface water etc. As such, a planning condition would need to be applied to secure details and implementation of on-site SUDs measures such as permeable paving, soakaways, waterbutts etc. This would secure the inclusion of SUDs and ensure the site would be adequately drained and not increase flood risk elsewhere, in accordance with the NPPF, ALP policies W DM2 and W DM3, and policy 10 of the FNDP.

TREES:

ALP policy ENV DM4 seeks to protect trees with TPOs, identified as Ancient Woodland, in Conservation Areas, or that contribute to local amenity.

The Council's Tree Officer has raised no objection to the application. There are significant on and off-site trees, which by virtue of their size and group density provide valuable screening between commercial premises and most importantly from the surrounding countryside. An Arboricultural Impact Assessment & Method Statement along with a Tree Protection Plan has been submitted. The Tree Survey data is comprehensive and accords with the requirements of BS5837:2012. With established trees confined to the site perimeter, there ought to be no significant conflict as part of any development proposal. This application seeks to achieve that, no tree removal is proposed, and the application is supported with high quality arboricultural input. The Tree Officer recommends planning conditions to ensure all protective fencing is inspected and 'fit for purpose' and all activity on site is to be undertaken in strict accordance with approved Tree Survey and Report.

The Tree Officer also commented that, while no tree removal is proposed, a requirement for new planting exists if this application is approved to achieve adequate softening of the negative visual impact when viewed from the north. In respect of soft landscape proposals (planting alongside the new N boundary fence line), no detailed Landscape Plan has been submitted and that would be required to be secured via an appropriately worded planning condition. The Trees Officer has suggested that a scheme such as described in section 7.3 and Appendix 5 of the Tree Report would seem to be appropriate but that the

Council's Landscape Officer could be asked for further comment.

In conclusion, subject to the planning conditions recommended by the Tree Officer, the proposals would have an acceptable impact on trees, in accordance with the British Standards and ALP policy ENV DM4.

SUMMARY:

The development applied for conflicts with the NPPF, Arun Local Plan policies SD SP2, C SP1, EMP DM1 and SD SP3 and policies 1A and 7 of the Ferring Neighbourhood Plan in that it is for a commercial/employment use within the designated Countryside and Settlement Gap, which is not justified by satisfying the exception tests of those policies. The development is therefore unacceptable in principle. It also results in adverse visual impacts on the character of the countryside and the landscape. This conflicts with policies D SP1, D DM1, LAN DM1 and EMP DM1 Arun Local Plan, policy 7 of the Ferring Neighbourhood Plan and the NPPF. The lack of an Ecology Impact Assessment being submitted with the application means there has also been a failure to demonstrate that protected species and ecology would be adequately protected from development, contrary to the NPPF and policy ENV DM5 of the Arun Local Plan. There are no other material considerations which outweigh this conflict with the Development Plan policies.

Accordingly, this application is recommended for refusal, 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 non CIL liable as it is classed as 'other development'.

RECOMMENDATION

REFUSE

- 1 The development introduces a commercial/employment use into a Countryside and Settlement Gap location, which is not justified by any policy exception tests. The development in this location is therefore unacceptable in principle and contrary to the National Planning Policy Framework, Arun Local Plan policies SD SP2, C SP1, EMP DM1 and SD SP3 and policies 1A and 7 of the Ferring Neighbourhood Plan.
- 2 The development results in adverse visual impacts on the character of the countryside and the landscape setting of the South Downs National Park. This conflicts with policies D SP1, D DM1, LAN DM1 and EMP DM1 of the Arun Local Plan, policy 7 of the Ferring Neighbourhood Plan and the National Planning Policy Framework.
- 3 No Ecology Impact Assessment has been submitted with the application. As such, due to a lack of information there has been a failure to demonstrate that legally protected species and ecology would be adequately protected from development, contrary to the National Planning Policy Framework and policy ENV DM5 of the Arun Local Plan.
- 4 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.