

Recommendation Report for Planning Permission

REF NO: FP/159/13/

LOCATION: Land at Rookery Farm
Worms Lane
Flansham

PROPOSAL: Change of use from production of timber for bio mass use (Sui Generis) to land for private outdoor fitness training (D2 Assembly and Leisure) vehicular access from the A259 with 8 bay parking area within site (resubmission of FP/102/13/). This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. Essentially the application seeks permission for the erection of a set of fitness equipment within the north eastern part of the site. This equipment is already in situ albeit within the south western part of the site and it is proposed to relocate it within the site away from those residential properties to the south of Worms Lane. In addition to this change, this application now proposes access direct off from the A259 (as opposed to the previous proposal with parking within Rookery Farm to the North and then pedestrian access from either the north or south of the site). During the course of this application, an amendment was received to create access direct from the A259 and provide 8 parking spaces within the north western part of the site. This amendment was received following a Highway objection with regard to pedestrians having to cross the A259.

The fixed equipment is listed within the application submission and the highest item is the scaffold frame at 4.5m with the majority of items no higher than 2-2.4m.

SITE AREA

The application red edge covers the whole of the site and is 0.5 hectares in size.

TOPOGRAPHY

The site itself is basically flat. However, the access from the A259 slopes upwards by over a metre.

TREES

This is a deciduous woodland site and a former timber biomass production business. Whilst from the outside, the site appears somewhat overgrown in parts, it is also clear from the air that the trees are predominantly arranged in rows and that there is space between the rows with at least one clearing.

BOUNDARY TREATMENT

Whilst there is a timber gate across the vehicular access from the A259 and a post & wire fence along parts of the

southern boundary, in the main, the site is simply bordered by vegetation. There is also a drainage ditch running along the western, southern and eastern boundaries.

SITE CHARACTERISTICS

This is essentially a block of woodland located between the A259 to the north, the pedestrian footpath "Worms Lane" to the south and two similar blocks of woodland to the west and east (but occupied to the west by a timber goods business and to the east by a small farm). In addition, Worms Lane splits the site from the woodland to the east. To the south of the section of Worms Lane running along the southern boundary, there is a residential estate.

The site has an existing informal vehicular access on the north side (from the A259). There is a timber gate here but it is apparent that there is no actual cross over and the ground slopes upwards over rough ground. This access only appears suitable for 4x4 type vehicles. Directly opposite the access from the A259 is access to Rookery Farm proper where there is existing parking.

CHARACTER OF LOCALITY

The area is predominantly rural but the site does border to the south with an urban area (the Worms Lane pedestrian route being the boundary). The local area is also decidedly wooded in character.

RELEVANT SITE HISTORY

Y/14/91/A	1 No non-illuminated hoarding sign.	Refused 28-05-1991
Y/27/92	Change of use of existing redundant farm buildings to warehousing/storage (Use Class B8)	Refused 04-11-1992
Y/32/99/	Improvements to farm access & crossover	ApproveConditionally 19-08-1999
FP/186/99/	Residential development comprising 90 no. 1, 2, 3 & 4 bedroom flats and houses together with access road, public open space and play areas and demolition of Mow Cottage (Departure from Development Plan).	Refused 18-08-2000
FP/180/05/	Outline Application for residential development comprising 96 dwellings, including affordable housing, open space, structural landscaping and associated works (Departure from the Development Plan)	Refused 15-11-2005 Appeal: Dismissed 03 05 2006

FP/159/13/

Y/44/09/	The installation consists of a two 11kw Gaia turbines, mounted on free-standing 18m lattice masts on 5m2 concrete bases. The turbines are of twin-bladed design and are manufactured as a single composite unit 13m in diameter	Refused 04-11-2009 Appeal: Allowed+Conditions 18 10 2010
FP/102/13/	Change of use from production of timber for bio mass use (Sui Generis) to land for private outdoor fitness training (D2 Assembly and Leisure). This application is a Departure from the Development Plan.	Withdrawn 23-08-2013
Y/1/60	11 KV overhead power cable and pole mounted transformer	Objection 27-06-1960
Y/3/60/A	Outline application for one dwelling	ApproveConditionally 19-04-1961
Y/3/60/B	Agricultural building	Approve 27-06-1961
Y/3/60/C	Detailed plans for dwelling	ApproveConditionally 16-08-1961
Y/3/60/D	2 Agricultural buildings	Approve 07-02-1962
Y/26/61	11 KV overhead line and pole mounted transformer	No Objection 08-02-1962
Y/3/60/E	Alterations to approved plans for dwelling house	Approve 07-03-1962
Y/11/64	Outline application for agricultural workers dwelling	Refused 10-12-1964
Y/3/60/F	Poultry house	Approve 11-08-1966
Y/27/71	Conversion of carport to layroom	Permit'd Devel 30-07-1971
Y/3/60	Outline application for one dwelling in conjunction with agricultural holding	No Decision Given

FP/102/13 was the first iteration of this proposal and sought retrospective consent for the siting of the exercise equipment within the south western part of the site. This application attracted a number of local resident objections as well as objections from both Middleton and Felpham Parish Councils. The application was withdrawn following officer advice that the proposals would not be supported with the equipment located close to the southern boundary of the site and that they would be better located towards the northern part.

REPRESENTATIONS

Representations received:

Felpham Parish Council

Middleton Parish Council

Felpham Parish Council - Response received 11/10/13: The Parish Council concur with the comments of WSCC in that there is no direct access to the site and that no biodiversity checks or surveys have been carried out with regard to wildlife." Response received 15/11/13 (in response to the amendment concerning vehicle access from the A259): "Traffic issues relating to 5 access and egress"

Middleton Parish Council - "The Development Control Committee wish to assured that WSCC Highways have carefully examined the safety of right turns off the A259 to access the car parking, especially given the projected increase in traffic that will occur when the Bognor Regis Relief Road opens in the next year or so. Further, WSCC Highways must also consider the safety of persons crossing the A259 from the car park to the facility given the large volume of traffic which use this 'National Speed Limit' road."

Comments on Representations received:

The Parish comments are noted and it is clear that the views of WSCC have been sought on this proposal and that their comments have been held in the highest regard. With regard to biodiversity, whilst it is true that no surveys have been provided, it should be noted that this is former commercial woodland. In addition, the West Sussex Biodiversity Record Centre was contacted during the determination of FP/102/13 and a desktop biodiversity report was provided. This did not reveal the presence of any protected species within the site boundaries. There was a report concerning a Water Vole but this was in the Flansham area and given that there is no watercourse within the site, it is not considered that the site is suitable for water voles.

It should be noted that whereas 10 letters of objection (including one from Cllr Mr English) were received with regard to FP/102/13, this time around with the equipment proposed on the north western part of the site, no objections have been received from neighbouring properties.

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Consultations responses received:

Arun District Council Environmental Health - "I note the local objection and concern in respect of noise from the previous proposal. The revised proposal relocates apparatus and participants/instructor further away from noise sensitive receptors and consequently any noise produced will be attenuated to some extent by the increased distance. It is unclear whether a formal restriction on numbers of participants is proposed or whether reliance will be placed upon the practical/safety considerations of the apparatus. Limited anecdotal advice suggests that the principle "noise source" was the instructor, and the problem may have been as much his language as the level of the noise. The proposal suggests that shrub planting could be undertaken along the southern boundary, whilst trees and shrubs provide very limited attenuation to the passage of noise they can be helpful, particularly under breezy conditions, in masking a noise source. The proposed hours of operation do not appear unreasonable for a leisure facility. Standard condition EHN14 may be considered appropriate to ensure that noise arising from activities on site is not significantly audible at the boundary of noise sensitive premises. The scheme might usefully include proposals for managing and monitoring noise,

instructor training/awareness, and dealing with complaints."

There was no further EH comment as a result of consultation on taking access from the A259.

WSCC Highways - Initially recommended refusal on the grounds that there would be no direct vehicular access into the site and that visitors will be expected to cycle or walk but that it would be highly likely that many would come by car. For those parking at Rookery Farm opposite, pedestrians would be required to cross the A259 in order to access the site. Speeds along this section of the road are derestricted and daily traffic flows are high. Crossing opportunity would be limited and could result in pedestrians growing impatient and crossing at unsuitable times, running the risk of being struck by a vehicle travelling at speed. There are also no pedestrian facilities along this section of the A259 and this could make crossing more hazardous in say wet weather. Pedestrians emerging from Rookery Farm to cross the road could also obstruct the path of vehicles leaving the A259 to enter the Rookery Farm site and lead to rear shunt collisions.

Following re-consultation on the proposal to provide vehicular access from the A259, WSCC maintained an objection but this time on the grounds of the access from the A259 being substandard with limited visibility and not being a formal crossover. It was considered that there could be the potential for vehicles waiting on the A259 whilst another vehicle exits or simply slowing right down to turn in ... with either having the potential to lead to rear shunt collisions. Refusal was recommended for the following reason:

"It has not been demonstrated that safe and suitable access can be achieved as required by paragraph 32 of the National Planning Policy Framework, that the proposed access arrangements will not present a risk of death of injury in accordance with Strategy 4 of the WSCC Local Transport Plan, and that the development allows for the safe movement of vehicles as required by Arun Policy GEN7"

Comments on Consultation responses:

It is considered that the concerns of Environmental Health could be satisfied by the condition mentioned and by additional landscaping along the southern boundary. The highway concerns however cannot be presently overcome and so the application must be refused for the reason mentioned. It is understood from speaking to the applicant that they are investigating taking vehicular access from elsewhere and that therefore they may be able to overcome this issue.

POLICY CONTEXT

Designations applicable to site:

Outside Built Up Area Boundary;
Special Control of Adverts; and
Class A Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN3	Protection of the Countryside
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN15	Cycling and Walking
	GEN29	Nature and Conservation Across the District
	GEN32	Noise Pollution

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to:

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process

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 whilst it would have no materially adverse effect on the visual amenities of the locality, the residential amenities of the adjoining properties or the established character of the surrounding area, it would have a materially adverse impact on the local road network which would be to the detriment of road users.

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

Arun DC Policy GEN3 'Protection of the Countryside' allows certain categories of development in the countryside and one of the 5 categories is (ii) "for quiet, informal recreation;". In addition part (iii) is for the "for the diversification of the rural economy;". This proposal will further diversify the use of this site which is connected to the agricultural holding Rookery Farm to the north. In addition, whilst noise was raised as an issue with regard to the previous application FP/102/13, the proposal is certainly for informal recreation and as such is considered to find support from Policy GEN3.

There is further support in the NPPF which states at paragraph 28 (3rd bullet point) that: (Planning policies should) "support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside". Whilst, people will travel to the site by car, there is also scope for them to walk, cycle or take the bus. The proposed leisure activity will be relatively quiet and will benefit the local community (i.e. those people that come to use the site).

NOISE

With regard to the previous application which had the equipment sited in the south western corner (reflecting the current situation on the site), a lot of local residents had complained about and objected on the basis of noise. This time around, with the equipment proposed to be relocated to the north eastern part of the site where it will be somewhat masked by road noise from the adjacent A259, no objections from neighbours have been received. This does not automatically mean that there will not be any noise impact to these residents but clearly the residents consider that this relocation of the equipment will be to their benefit.

The closest piece of equipment will now be at least 80m from the nearest residential property on the estate to the south. In addition to the re-siting of the equipment, the application proposes to increase planting to the southern boundary (and this would also be required to the eastern boundary to protect Mow Cottage). Environmental Health has raised no objection to the proposal subject to the imposition of a condition (Scheme for the Control of Noise). If the application were to be approved then conditions requiring a landscaping scheme and restricting the operating/opening hours would also be required. With all of these in place it is considered that the proposal would comply with Policies GEN7 and GEN32 in respect of noise and the need to ensure that the proposal does not have an unacceptable adverse impact on adjoining occupiers.

BIODIVERSITY

Concern has been raised by Middleton Parish Council as to the impact of the proposal on the biodiversity of the site. Policy GEN29 states that "Development will only be permitted on sites which contain semi-natural habitats, features of nature conservation interest, or within wildlife corridors, where these can be largely retained and sympathetically incorporated into the scheme."

This proposal does not propose to materially affect the wooded character of the site. Whilst it may be necessary to remove some trees within the site, given the previous biomass production use, the trees are planted in rows and there is space between these rows to accommodate the equipment. Furthermore, it should be noted that this is former commercial woodland and as such the trees were planted in order to be felled at a later date regardless of whether they provided

wildlife habitat or not. Notwithstanding, the West Sussex Biodiversity Record Centre have been consulted and it is clear that no protected species have been recorded on the application site.

Furthermore, whilst there will be a change in the activity levels at the site during the day, this does not necessarily mean that wildlife species will not be able to continue to live at the site or use it for foraging habitat, particularly during the night when the site is not in use.

ACCESS

Both the first application (FP/102/13) and the original version of the current application did not propose any direct vehicular access to the site and instead had pedestrian access from the north (and within the previous application, from the south) with parking available within Rookery Farm to the north or in the case of the southern entrance, on-street within the residential estate to the south. It was considered by WSCC that this proposal would be unacceptable given the potential for accidents from pedestrians crossing the A259.

Whilst WSCC did not specifically raise objection to the parking of vehicles on the residential estate to the south and then accessing the site from Worms Lane, this would have had an impact on and caused conflict with the residents of that estate and may have resulted in an objection with regard to Policy GEN7. Furthermore, no detail had been provided at that time with regard to how pedestrian access would be taken into the site from Worms Lane including how the drainage ditch would be traversed. The southern pedestrian access does remain on this application (and no details have been provided as to its construction) but with the proposal now to take vehicular access from the A259 and provide parking spaces within the site, it is clear that the intention is to direct drivers to that entrance.

However, whilst WSCC do not now have concerns about pedestrians crossing the A259, they consider that the proposed access is substandard with limited visibility and lacking in sufficient width and radii such its intensified use could lead to rear shunt collisions on the A259.

It is on this basis alone that the application has to fall down - and it is therefore recommended that the application refused for the following highway reason.

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

REFUSE

- 1 It has not been demonstrated that safe and suitable access can be achieved as required by paragraph 32 of the National Planning Policy Framework, that the proposed access arrangements will not present a risk of death or injury in accordance with Strategy 4 of the WSCC Local Transport Plan, and that the development allows for the safe movement of vehicles as required by Arun Policy GEN7.
- 2 **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 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.