

Recommendation Report for Planning Permission**REF NO:** FP/230/12/**LOCATION:** Site 6
Felpham**PROPOSAL:** Amendment to the proposed bunds, granted planning permission under FP/220/07, to allow footpaths FP2988 and FP154 to be retained in their present position in crossing the Bognor Regis Relief Road (This application affects a Public Right of Way)**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Proposal to amend the existing approved bunds adjacent to the Bognor Regis Relief Road (BRRR) to allow both footpaths (154 and 2988) to remain on their existing alignments where they cross the BRRR. FP2988 is not proposed to be diverted at any point. FP154 is proposed to be diverted to reach a point where to the south it goes around the playing field and to the north where it goes around the storm attenuation pond. The proposed diversion is subject to a separate application under the relevant legislation. The bund to the south of the BRRR is proposed to be 2m in height with a 1m acoustic fence on top. The bund on the northern side of the BRRR is 2m in height with a 1.5m acoustic fence. It is proposed to breach these bunds (at a width of 3m) and the footpaths would remain at ground level. The bunds were approved under planning permission FP/220/07 for details of the western section of the BRRR.
SITE AREA	0.1 hectares
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	N/A
SITE CHARACTERISTICS	Area of land (verge) adjacent to new relief road.
CHARACTER OF LOCALITY	New residential development under construction.

RELEVANT SITE HISTORY

FP/220/07/	Approval of reserved matters following outline application FP/92/04 - The eastern section of the Bognor Regis Northern Relief Road between the A259 at Felpham to the A29 & associated engineering works (This application affects a public right of way & also falls within the parishes of Yapton, Middleton, Bognor Regis, Aldingbourne & Bersted)	Approve Conditionally 15-01-2009
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The bunds were approved under planning permission FP/220/07.

REPRESENTATIONS

Representations received:

Felpham Parish Council

Felpham Parish Council - No objection

Comments on Representations received:

None

CONSULTATIONS

WSCC Strategic Planning

Environmental Health

Parks and Landscapes

Consultations responses received:

Environmental Health Officer - No objection

Comments on Consultation responses:

None

POLICY CONTEXT

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN7 GEN32	The Form of New Development Noise Pollution
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PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

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 Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can

carry weight but, because it predates 2004, a reduced weight. The weight of the Local Plan policies can be assessed according to their level of consistency of the various policies (not the Plan as a whole) with the National Planning Policy Framework. Full weight cannot be given to the saved policies of this plan.

The proposal is considered to comply with the Development Plan in that it would have no 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.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council has recently published the Draft Arun Local Plan and is therefore a material consideration in the determination of this planning application. It remains subject to publication of a pre-submission Plan, formal public consultation, resolution of objections, examination and the formal adoption process as a whole, and it is therefore of very limited weight in terms of the decision making process at this stage.

CONCLUSIONS

The proposals are very minor in nature. Bunds have been approved as part of the detailed planning permission for the relief road and this application seeks only to create four openings within these bunds (two on the southern side of the road and two on the northern side). These openings will be 3m in width to allow the existing footpaths to run through the bunds.

The impacts of these openings will not significantly affect the performance of the bunds in terms of noise mitigation from traffic for housing to adjoining the road and will have no material impact on the character of the area.

This application only seeks planning permission for the 'gaps' to be created in the approved bunds and it does not impact upon a separate requirement for diversion of any footpath, which is required under different legislation.

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 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a

proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts neutral 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).

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

PLAN-LOC/1211107
BNRR NOISE 01 F
BNRR NOISE 02 C
30854/REWK/03 E
30854/REWK/05 C

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Policy GEN7 of the Arun District Local Plan.

- 3 **INFORMATIVE:** Summary of Reasons for Grant Article 31 Development Management Procedure Order 2010

SUMMARY

This planning permission is granted because it complies with the policies listed below in that (the development would not cause any material adverse effect on visual or residential amenity on the surrounding area and its character)and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN7, GEN32

NATIONAL POLICIES: NPPF

This is only a summary of reasons for granting to comply with Article 31 and full reasons appear in the Officer report.

- 4 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.