

Recommendation Report for Planning Permission

REF NO: FP/302/17/PL

LOCATION: 10 Kingsmead
Felpham
PO22 7BE

PROPOSAL: Outbuilding

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The outbuilding will be 4.5m deep with a varied width of between 3.2m and 3.65m. It will have a flat roof and be 2.5m high. It will be constructed from stained plywood and have a felt roof. Double UPVC doors are proposed to the front but no windows are included. The building will have an internal light and a tap is to be affixed to the exterior of the building.
SITE AREA	0.02 hectares.
TOPOGRAPHY	Slight slope front to rear.
TREES	TPO Tree to the front but this is not affected by the proposed development.
BOUNDARY TREATMENT	1.8m high close boarded fence to sides and end of the of rear garden.
SITE CHARACTERISTICS	Rear garden to a new build semi-detached dwelling.
CHARACTER OF LOCALITY	Residential area. There are several other outbuildings in the gardens of nearby properties including notably a small pitched roof timber shed immediately to the east in the adjacent garden (no. 8a), a large outbuilding immediately to the north within the large area of private land to the rear and a further pitched roof timber shed in the rear garden of no. 12.

RELEVANT SITE HISTORY

FP/136/17/DOC	Application for approval of details reserved by conditions imposed on planning reference FP/264/16/PL relating to conditions 3 (Drainage), 4 (Machinery, Plant & Materials) & 5 (Cycle Storage)	DOC Approved 01-08-17
FP/264/16/PL	Erection of 2 No. dwellings.	ApproveConditionally 25-05-17
FP/65/17/T	2m crown reduction to North & remainder of crown by	ApproveConditionally REPORT(ODB)

1.5-2m. Removal of branch 'stub cuts' in lower crown to 11-05-17
1No. Sweet Chesnut tree.

FP/265/16/DEM	Prior Notification for proposed demolition of 1No. bungalow of non-standard construction.	No Objection 22-12-16
FP/106/14/T	To Crown Reduce by 1-2 metres in unbalanced areas, Crown Thin by 25% and other minor surgery to 1 No. Sweet Chestnut	ApproveConditionally 19-08-14

Application FP/265/16/DEM allowed for the demolition of a previous bungalow. A site visit undertaken in December 2016 recorded that there were two single garages and a shed in the rear garden.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Felpham Parish Council

Initially objected on the grounds that there was insufficient information on the height and size of the outbuilding and that the development would be very snug to the boundaries. Also commented that this could create a precedent. However, following further consultation, issued revised comments to state that: "No objection - subject to sufficient drainage".

Two letters of objection from the neighbouring property 8a Kingsmead on the grounds that:

- (1) The dimensions are not clear as to the height and size of the building;
- (2) The boundary to our fence looks very close on the drawings;
- (3) The building will have power and water; and
- (4) The building will overlook our back garden and interfere with our privacy.

COMMENTS ON REPRESENTATIONS RECEIVED:

In respect of drainage, the Councils Engineers comment that as the proposal concerns an outbuilding and is outside of the Lidsey Catchment Area, they would not normally comment. They did raise concerns with the applicants suggestion of draining the building to the approved soakaway for the recently built dwelling but the applicant has withdrawn that suggestion and so there is no objection. The Councils Building Control officers have also confirmed that the outbuilding is below the size threshold for building regulations and therefore, Building Control would have no control over drainage.

Regard should also be had to the fact that if it was not for the condition removing permitted development rights for outbuildings as imposed on FP/264/16/PL, then this building could have been constructed under permitted development rights and would not have been subject to any consultation or drainage assessment. Similar outbuildings nearby are likely to have been constructed under permitted development rights and therefore likely have no drainage provision. On this basis, it is considered inappropriate and unreasonable to impose a drainage condition.

The following comments are made in respect of the neighbours objections:

- (1) The original elevation drawing did not include any measurements but it was to scale and therefore measurements could be taken from it. However, the applicant has provided a second version of the plan which includes annotated measurements;
- (2) The building will be 240mm from the boundary;
- (3) The applicant has confirmed that the electricity is for an interior light and the water for an external tap;
- (4) The building is not intended to be used as habitable accommodation and there are no windows. Although it will be possible to look out of the door, only the top 0.2m area of this door will be higher than the adjacent fence and it is not considered that this would result in unacceptable harm to the privacy of the neighbours garden.

CONSULTATIONS

Engineering Services Manager
Engineers (Drainage)

CONSULTATION RESPONSES RECEIVED:

ADC DRAINAGE ENGINEERS - " I wouldn't normally comment on such an outbuilding that is outside the Lidsey catchment area, however, now they have mentioned discharging to the soakaway that was approved under a separate application, that was not designed for the outbuilding, they will need to prove there is adequate capacity to accept the extra flows."

COMMENTS ON CONSULTATION RESPONSES:

The applicant has withdrawn his suggestion of piping the runoff from the outbuilding to the existing soakaway.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
Flood Zone 3 (high risk);
No Public Sewer;
PD Restriction; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN2	Built-up Area Boundary
GEN7	The Form of New Development
GEN9	Foul and Surface Water Drainage
GEN11	Inland Flooding

[Publication Version of the Local Plan \(October 2014\):](#)

SD SP2	Built -Up Area Boundary
D DM1	Aspects of Form and Design Quality
D DM3	External Space Standards

D SP1 Design

W DM2 Flood Risk

W DM3 Sustainable Urban Drainage Systems

Felpham Neighbourhood Plan 2014 POLICY ESD1	Design of new development
Felpham Neighbourhood Plan 2014 POLICY ESD2	Development in flood sensitive areas
Felpham Neighbourhood Plan 2014 POLICY ESD5	Surface water management
Felpham Neighbourhood Plan 2014 POLICY ESD8	Building design
Felpham Neighbourhood Plan 2014 POLICY ESD10	Design details

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

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

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and then subject to public consultation. The hearing sessions into the examination of the Arun Local Plan ended on Thursday 28 September 2017 and the Inspector then wrote to the Council to set out his 'Interim Views following the Hearings'. The plan was then modified further in January 2018 (Modified - Arun Local Plan - January 2018 Consultation) and these were subject to public consultation between 12 January 2018 and 23 February 2018.

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. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

The relevant policies of the Felpham Neighbourhood Development Plan are considered within the report.

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 considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

Regard should be had to the fact that if it was not for the condition removing permitted development rights for outbuildings as imposed on FP/264/16/PL, then this building could have been constructed under permitted development rights as per other existing nearby outbuildings and would not have been subject to any assessment of planning policies.

CONCLUSIONS

PRINCIPLE:

The site is within the built up area boundary where development is acceptable in principle subject to normal development control criteria being satisfied such as design, visual & residential amenity and flood risk.

Planning permission FP/264/16/PL removed permitted development rights for outbuildings and it is for this reason that this application has been made. The reason that permitted development rights were withdrawn was to safeguard the privacy and amenity of adjacent properties, maintain adequate amenity space and safeguard the cohesive appearance of the development.

The application will now be assessed in respect of visual amenity, residential amenity, external space standards and flood risk.

VISUAL AMENITY:

Arun Local Plan Local Plan policy GEN7 (ii) requires that new developments respond positively to the identified characteristics of a particular site to create developments which respect local characteristics.

Felpham Neighbourhood Plan policy ESD1 states that: "New development which would have an effect on the appearance or character of the surrounding area must be of a high quality of design and must contribute to local character by creating a sense of place appropriate to its location."

It is also necessary to consider policy ESD8 which includes the following: "The design of new buildings must reflect the design principles of their time so that the richness of varied character would continue and would be extended into the future."

Policy ESD10 requires that certain features are integrated into the overall scheme at an early stage. However, none of these features are applicable to this proposal.

The outbuilding will not be visible from the streetscene and the bulk of it will be screened by existing boundary fencing with only the top 0.7m visible above these boundaries. However, existing sheds nearby also protrude above the boundaries. In particular, the large outbuilding directly to the rear will be of a similar height. It is not considered that the top most part of the outbuilding will be detrimental to the character of this urban residential area and that the building as a whole will have little if any impact on the visual amenity of the surrounding area.

It is not considered that the building would conflict with any of these policies.

RESIDENTIAL AMENITY:

Arun District local Plan policy GEN7 (iv) indicates that development will be permitted if it takes into account impact on adjoining occupiers, land, use or property.

The top 0.7m of the building will be visible from the neighbouring property and the top 20cm of the 2m high door will allow views into the neighbours garden. However, this would only be the case for tall persons over a certain height. Furthermore, the outbuilding is not intended for use as habitable accommodation and its use would be as storage such that it is not likely that persons would linger within it. It is not considered that the outbuilding will take any light away from the neighbours garden particularly as they themselves have a shed on the other side of the fence.

It is not considered that the building would conflict with part (iv) of policy GEN7.

EXTERNAL SPACE STANDARDS

The condition removing permitted development rights was partly imposed as a result of a desire to protect the size of the garden area, which at 90m² was assessed as 10m² less than the required standard but not significant given the garden depth at 17m (which was 7m deeper than the 10m requirement). Although this proposal reduces the depth of useable garden to only 60m², the remaining garden area is still considered to be a useable space and is 12m deep. Furthermore, the current modified version of the emerging Arun Local Plan proposes to delete policy D DM3 in favour of inclusion within a future design guide. There are no equivalent policies in the Neighbourhood Plan. Therefore, it is no longer possible to insist that a garden meets a certain minimum size. On this basis, the Council would find it very difficult to defend an appeal if this application was to be refused on the grounds of harm to the garden area, particularly as the outbuilding may well be used to store equipment and materials necessary in respect of the upkeep and enjoyment of the garden area.

FLOOD RISK:

Felpham Neighbourhood Plan policy ESD2 states that "All developments in flood sensitive areas, including new green spaces, will be designed and constructed to reduce the level of flood risk when compared to current use".

The site lies in Flood Zone 3 which is a high risk zone. However, the Environment Agency's standing advice is that householder development is appropriate development in Flood Zone 3. As the building is simply to be used for storage (i.e. not for human habitation), it is not necessary to impose a condition requiring finished floor levels to be a certain level. Therefore, the proposal does not conflict with policy ESD2.

SUMMARY:

Planning permission FP/264/16/PL removed permitted development rights for outbuildings and it is for this reason that this application has been made. The reason that permitted development rights were withdrawn was to safeguard the privacy and amenity of adjacent properties, maintain adequate amenity space and safeguard the cohesive appearance of the development. The above analysis concludes that there is no harm to visual amenity, residential amenity or amenity space. There are also no concerns with flood risk or drainage. As such, it is recommended that planning permission be granted subject to the following conditions.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

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:

Drawing 2 Location Plan; and
Drawing 1 Rev B Block Plan & Elevations.

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:** 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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.