

Recommendation Report for Planning Permission

REF NO: FP/30/19/PL

LOCATION: 10 South Road
Felpham
PO22 8EF

PROPOSAL: Demolition of chalet & erection of 1 No. 4 bedroom chalet (resubmission following FP/234/17/PL)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	It is proposed to demolish the existing chalet style detached dwelling within a cul de sac and to erect a detached 4 bedrooms chalet bungalow with a habitable roof within the north east corner of the rear garden of this property with the vehicle access from South Road. The proposed relocation of existing access has not been clearly demonstrated on the proposed plans. The facilities such as a lay-by for large delivery vehicles and an air-conditioned shed for deliveries which will be built in the driveway are only mentioned within agent's 'Planning Statement' but not shown at drawings submitted.
SITE AREA	2097square metres
RESIDENTIAL DEVELOPMENT DENSITY (NET)	4.8 dwellings/hectare
TOPOGRAPHY	Predominantly flat.
TREES	Several trees of amenity value are present along the western boundary of the site.
BOUNDARY TREATMENT	Mixture of 2m high close boarded fence with trees and hedging along the eastern boundary of the site, white painted dwarf wall with overgrown bushes behind.
SITE CHARACTERISTICS	The application site comprises chalet style dwelling with a habitable roof and a small timber garden shed, a small domestic greenhouse and a swimming pool to the rear of a spacious rear garden. The western boundary of the site fronts onto public footpath.
CHARACTER OF LOCALITY	South Road is a short cul-de-sac bordered by extensive grass verges with a variety of detached houses located within generous plots, benefitting from large amenity space to the front. It comprises of mixed character detached and semi-detached properties with street frontage to South Road. The area is entirely residential of a verdant character opening to the west where the Feltham Community College is situated, separated from the residential by a public path with a grass

verge aside.

RELEVANT SITE HISTORY

FP/234/17/PL	Development of 1No. residential detached chalet. Plans to include partial demolition of 10 South Road extension to allow for suitable access.	Refused 08-11-17 Appeal: Allowed/Temp 08-06-18
FP/186/16/PL	5 No. dwellings including partial demolition of 10 South Road to allow for access (resubmission following FP/60/16/PL).	Refused 02-12-16 Appeal: Dismissed 18-05-17
PAA/77/15/	Erection of 1 No. detached 4-bedroom-house & 2 No. detached 3-bedroom-houses	Refuse Pre App 30-07-15
FP/190/10/	Outline application for the erection of 3no. 3 bedroom age restricted chalet bungalows	Refused 04-11-10 Appeal: Dismissed 24-03-11
FP/55/05/	Proposed extension to existing dining room & construct new pitched roof over rear flat roof to provide 2 bedrooms one ensuite. Provide swept drive to alternative access.	ApproveConditionally 23-05-05
FP/247/03/	Outline Application for removal of existing dwelling and erection of three detached chalet bungalows and double garage, together with associated driveway	Refused 26-01-04
FP/54/96	3 dwellings (two bungalows and one chalet)	Refused 16-07-96

The recent application FP/234/17/PL for the same development with only partial demolition of existing dwelling No.10 to allow for suitable access was refused for the following reason:

"The back land development by reason of its layout, location and access would be damaging to the established pattern of development and out of character with the area contrary to saved policy GEN7 of the Arun District Local Plan 2003, emerging policies D DM1, D SP1, QE SP1 of the Arun Local Plan 2011-2031 Publication Version (showing Modifications) and ESD1 of the Felpham Neighbourhood Development Plan May 2014."

The decision was challenged; Appeal Ref: APP/C3810/W/18/3195440, dismissed on 8 June 2018.

The application FP/186/16/PL refused for the following reason:

"The proposal for 5 dwellings represents an overdevelopment of the site out of character with the area contrary to GEN7 of the Arun District Local Plan, D DM1 of the Emerging Arun District Local Plan and ESD1 of the Felpham Neighbourhood Development Plan."

The refusal was challenged by an Appeal Ref: APP/C3810/W/17/3166943, dismissed on 18 May 2017.

The current application is almost identical (the design of a new dwelling) with one difference: the existing dwelling No10 is proposed to be demolished and re-placed with a lay-by for large delivery vehicles and an air-conditioned shed for deliveries which will be built in the driveway.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Felpham Parish Council

Felpham Parish Council has objected stating: 'out of keeping with street scene, not conforming to existing building line.'

37 letters of objection:

- The inspector's statements are interpreted incorrectly.
- Introduction of prominent urban development harmful to the verdant and sylvan style of this cul de-sac.
- Proposed vegetation screening carried no assurance that any planting in private gardens or off the site would be retained.
- The three previous structures on this ground were a small timber garden shed, a small domestic greenhouse and a domestic swimming pool.
- The facilities located within the driveway seem quite incongruous in a quiet residential road.
- The same PEAIEB (a Preliminary Ecological Appraisal and Internal/External Bat) that was originally commissioned for FP/186/16/PL, for 5 dwellings, while the recent is for one.
- 'Effective use of land by re-using land that has been previously developed (brown land)' - false claim.
- A large degree of habitat loss and other degradation.
- Demolition for the purpose of accessing back land development, which violates the long established nature of residential gardens in this area.
- The precedent will be set for similar development in the locality.
- Inappropriate and alien proposal to the character of its surroundings.
- It would significantly reduce the residential amenity of the abutting properties.
- Would not comply with Policy ESD1 of the Felpham Neighbourhood Plan which requires that "new development must contribute to local character by creating a sense of place appropriate to its location".
- It will ruin the symmetric pattern of development of the area; the back gardens will be overlooked.
- Highly intrusive, both to the secluded gardens and rear room windows of existing properties.
- This application seeks to demolish a perfectly good house that fits its surroundings and replace it with an alien structure.
- There have been 3 independent inspectors, through appeals, visiting this site in recent years.
- The proposed new building would be bordered by a well-used public footpath.
- This is simply a tactic/strategy to establish a precedent by applying to build just one property at this stage (a Trojan Horse application).

COMMENTS ON REPRESENTATIONS RECEIVED:

The majority of the above objections are planning issue. Objections raised will mainly be covered in the Conclusions section of this report.

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Parks and Landscapes

Ecology Advisor

CONSULTATION RESPONSES RECEIVED:

Greenspace comments:

- As this is a replacement dwelling there would be no requirement for POS or play contributions.
- There would be a requirement for the submission of a detailed landscape plan to detail the trees and shrubs to be retained with this development. The planting plan would need to provide detail of a scheme which would complement the existing, be beneficial habitat forming to promote and enhance the biodiversity of the site and contain a mix of deciduous and evergreen, native and ornamentals.
- Mitigation tree planting may be required for screening purposes and in compensation for any tree removal. Any tree works within the site would need to be in consultation with Arun District Council. Tree protection measures to be in place before any demolition or construction works to protect retained trees within and bordering the proposals.
- No landscape objection to this single dwelling replacement subject to the above.

Ecology Officer comments:

Bats

- Following submission of the Preliminary Ecological Appraisal and Internal/External Bat Survey (Aug 2016) we are satisfied that no further survey work for bats is required.

Reptiles

- To ensure the site remains unsuitable for reptiles, continued management of the site must take place to ensure reptile habitat does not develop onsite. If this is not possible then a precautionary approach should be taken within the site with regards to reptiles.

WSCC (Highways) comments:

- The applicant is proposing to relocate the existing access onto South Road; however this has not been clearly demonstrated on the proposed plans and does not demonstrate details of the closure of the existing access.
- The WSCC car parking demand calculator expects that a minimum of 3 parking spaces would be required for a dwelling of this size and location. As the plan shows, there is more than adequate parking on site, including the garage to accommodate the habitants. The proposed garage meets minimum internal specifications of 3 x 6m as set out in Manual for Streets (MfS).
- The Local Highway Authority (LHA) does not consider that this proposal would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted; no objections from statutory consultee, subject to conditions.

POLICY CONTEXT

Designation applicable to site:

Built-Up Area Boundary

2km Buffer for Site of Special Scientific Interest Felpham

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
SDSP1	SD SP1 Sustainable Development
WDM1	W DM1 Water supply and quality
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management

Felpham Neighbourhood Plan 2014 POLICY ESD1	Design of new development
Felpham Neighbourhood Plan 2014 POLICY ESD5	Surface water management
Felpham Neighbourhood Plan 2014 POLICY ESD9	Tree protection
Felpham Neighbourhood Plan 2014 POLICY ESD10	Design details
Felpham Neighbourhood Plan 2014 POLICY ESD11	Increasing the energy efficiency of our buildings

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

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

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Felpham has a "made" Neighbourhood Plan and the relevant policies are ESD1, ESD5, ESD9, ESD10, ESD11 and GA1.

New Emerging Plan reached the stage Reg 14 and is a material consideration when determining applications. The relevant policies are ESD1, ESD2, ESD4, ESD6, ESD7, H1 and GA1.

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 is considered to conflict with relevant Development Plan policies in that the proposed would have a detrimental and adverse impact upon the established character of the surrounding area. It would fail to respond to the local character and would not reflect the identity of the local surroundings.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE

The proposed development is situated within the built up area boundary within a sustainable location where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policies considered are SD SP2, D SP1, D DM1, D DM2, TSP1, ECC SP2, QE SP1, W DM1 and WM DM1 of the Arun Local Plan, policies ESD1, ESD5, ESD9, ESD10 and ESD11 and relevant paragraphs of NPPF.

Policy D SP1 requires all development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrate and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy D DM2 expects internal spaces to meet the requirements of Nationally Described Space Standard. Policy W DM1, Policy ECC SP2 expects all new development to be energy efficient.

Policy ESD1 of the Felpham Neighbouring Plan stresses that proposals must respond to the specific character of the site and its local surroundings.

NPPF in paragraph 122 (d) states that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting (including residential gardens).

Paragraph 49 of the NPPF indicates that housing applications should be considered in the context of the

presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if a 5 year supply of deliverable housing sites cannot be demonstrated.

The Council can demonstrate a 4.7 year supply of housing land and therefore, relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework confirms the presumption in favour of sustainable development and advocates that where relevant policies are out of date development proposals should be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

As an Inspector in his report APP/C3810/W/18/3195440 pointed out: 'The lack of a five year supply of housing land does not automatically lead to a grant of planning permission if the adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework.' The current proposal would make no contribution to housing stock in the area since the existing dwelling No10 South Road would be demolished as such it would be an inappropriate replacement only.

CHARACTER AND APPEARANCE AND THE PATTERN OF DEVELOPMENT

Whilst the dwelling would not be out of keeping with the varied design of dwellings in the cul-de-sac and wider area, the new dwelling would be sited far behind the building line in the western corner of the rear garden. This would be significantly at odds with prevailing pattern of development in the area which consists of centrally positioned detached properties within generous plots with relatively low boundaries fronting to the cul-de-sac with its open quality, exposing the properties in slightly raising landscape in the shoe horse shape. The demolition of an existing dwelling No10 in order to create access to proposed dwelling in the rear garden would create an incongruous gap within the area of a subtle symmetry. The new access road hemmed with trees/bushes and facilitated with a lay-by for large delivery vehicles and an air-conditioned shed for deliveries would disrupt the urban pattern of the area. What is more, the site of No10 is the widest one within a cul-de-sac. Submitted 'proposed street scene is more confusing than helping to understand the outcome of the proposed.

The development would set up an uncharacteristic form of development which would be out of keeping with its surroundings, unacceptably harming the character and appearance of the area. It has been argued that the rear of garden has been developed previously, but in reality there were three structures on this ground; a small timber garden shed, a small domestic greenhouse and a domestic swimming pool ancillary to the main building. Ancillary domestic structures are not uncommon in rear gardens. However, a new dwelling would generally have different characteristics, including the creation of a separate curtilage and the generation of its own domestic paraphernalia.

Although the Framework does not prevent development on garden land in principle, it does require new developments to respond to local character and history and to reflect the identity of local surroundings (paragraph122).

The Inspector in his report, APP/C3810/W/18/3195440 stated: 'I do not consider that the creation of an access way at this point would respect the open, sylvan and spacious quality of the area. Accordingly I find that the proposal would be damaging to the established pattern of the development'. That was in a context of the demolishment of the part of No10, however it would be even more in place for the current proposal.

Therefore proposal would be harmful to the character and appearance to the area and that would conflict

with policies D SP1 and D DM1 of the Arun Local Plan, policy ESD1 of the Felpham Neighbouring Plan and NPPF paragraph 122.

RESIDENTIAL AMENITIES

The creation of new dwelling would potentially increase activity in the rear garden area but given the separation distances between dwellings and the screening effect of the existing hedges and trees, any such activity would not be so intrusive or harmful as to justify refusal of the proposal. Concern has been expressed that the development would result in overlooking and loss of privacy to neighbouring residents. Given the separation distances and the mature vegetation around the site, it is considered that there would be no significant harm in this respect.

However, in order to provide access to the dwelling, the existing dwelling would be demolished and the access way would set in its place leaving the neighbouring properties Nos 11 and 9 alongside an long access way. This would be used in connection with a new four bedroom dwelling, extended to run alongside the rear gardens of the neighbouring properties to serve new parking area sited adjacent to the rear garden of No 11. Given the anticipated amount of traffic associated with a four bedroom dwelling which as the agent stated in his Planning Statement; 'can accommodate a broad range of occupants from a large family through to an elderly or infirm occupant since there is a particular shortage of housing for the elderly in Arun so we submit that housing of this nature is in particular demand.' This connection would include visitors and delivery vehicles causing significant harm to the living conditions of the occupiers of these dwellings.

The agent proposes to mitigate the impact on neighbourhood by provision of planting soft landscaping, however it would not mitigate the identified noise and disturbance impacts associated with vehicle engines. The adequate buffer planting would have a visual effect but would not shield the noise. Therefore it is considered that the proposed development would fail to accord with policies D SP1, D DM1 and QE SP1 of the Arun Local Plan.

In the recently dismissed appeal ref. APP/C3810/W/19/3230405, 312 Chichester Road, the inspector in his report pointed out on the significant harm to the living conditions of the occupiers of neighbouring dwelling caused by the proposed driveway serving new dwelling in the rear garden which, as he concluded, would not overcome a small social benefit in providing an additional housing. It is considered similar harm would arise here.

RESIDENTIAL AMENITY STANDARDS

The internal size of the proposed dwelling and the size of the gardens is considered to be satisfactory and meet the standards required by Central Government Guidance and emerging Local Plan policies DDM1, DDM2 and the Nationally described space standard .

HIGHWAY SAFETY AND PARKING

No objection (subject to conditions) has been raised from the County Highways and therefore the development is not considered to have a significant adverse impact on highway safety or traffic generation in the location.

ECOLOGY

It has been stated that the development would be detrimental to wildlife and the ambiance of the area. Even though the submitted Preliminary Ecological Appraisal is out of date, referring to the proposal for 5 dwellings whilst one dwelling is proposed in the recent application, there is no evidence to show that any such impact would be significant.

The Council's ecologist had suggested informatives and a condition regarding the protection of birds. This could be added were a recommendation for approval to be made. As such it is not considered that the development could result in harm to protected species or their habitats in compliance with emerging policy ENV SP1.

FLOOD RISK AND SURFACE WATER DRAINAGE

The area is not in a high risk flood zone or within the Lidsey catchment area, the risk of surface water flooding is insignificant from the development but still a local concern in regards to the NDP. This is considered to meet the requirements of NDP Policy ESD5.

TREES

The large trees to the rear of the building are shown as being retained on the proposed plan. Although, given the location of the dwelling it is considered likely they would be lost during or before the development. Although not protected by order, the trees are of significance in terms of visual amenity, visible from south road and the public footpath to the west (rear) of the site and this is a consideration for the purposes of ESD9 (ESD6 of Emerged Plan) of the Felpham NDP. However it would be not a reason to refuse the application.

CONCLUSION

The development is considered to conflict with policies D SP1, D DM1 and QE SP1 of the Arun Local Plan, policy ESD1 of the Felpham Neighbourhood Development Plan and relevant paragraphs of NPPF and therefore is recommended for refusal.

Notwithstanding the above, submitted drawings are inaccurate, the proposed elevations are not matching with the proposed roof plan, the street scene is misleading, failing to show the relationship between neighbouring properties.

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 The proposal by virtue of its location and creation of a gap in the street scene due to a new access fails to reflect the established pattern of development within surrounding residential area, detrimental to its distinctive character, contrary to policies SD SP1, D SP1 QE SP1 of the Arun Local Plan, policy ESD1 of the Felpham Neighbourhood Plan and paragraph 122(d) of NPPF.
- 2 The access would result in significant harm to the living conditions and amenities of the occupiers of 9 and 11 South Road in respect of unacceptable levels of noise and disturbance, contrary to policies D DM1, D SP1 and QE SP1 of the Arun Local Plan and the guidance on good design within the National Planning Policy Framework.
- 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 with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.
- 4 **INFORMATIVE:** If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.