

Recommendation Report for Planning Permission

REF NO: LU/101/21/PL

LOCATION: Normandie
 Toddington Lane
 Littlehampton
 BN17 6JT

PROPOSAL: Erection of one detached chalet dwelling

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Permission is sought for an erection of detached chalet style on the plot obtained from a recently approved site for 10 dwellings and an additional strip of land between the site and the rear shallow gardens of 3 and 4 New Cottage Gardens which belonged to Normandie. The site is accessed from an extended access road from Barn Close.
SITE AREA	561 square metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	18 dwellings / hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the development as a result of previous activities. As stated in the letters of representation numerous large trees were already cut down.
BOUNDARY TREATMENT	The boundary treatments of the rear gardens surrounding site; close boarded panel timber fence with concrete posts to the south and to the west, open to the north, east.
SITE CHARACTERISTICS	The site is a south-western edge part of a former horticultural nursery, currently under construction for 10 residential detached two-storey dwellings set out along an extended access road from Barn Close. It is situated in the very end of this land and was created by removing the south-western edge of the site for 10 dwellings and adding the strip of land between the site and rear gardens of 3 and 4 New Cottage Gardens. The site has an irregular shape surrounded from the south by boundaries of rear gardens along Holmes Way Nos 2,4(a,b) and from the west by the boundary of rear rather shallow gardens of 3 and 4 New Cottage Gardens. The site benefits from an access onto Barn Close.
CHARACTER OF LOCALITY	Residential area surrounded on all sides by dwellings of varying age, design styles, heights and density.

LU/133/19/PL was refused and the appeal has subsequently been dismissed.

LU/210/19/PL was refused and Appeal W/4000248 has been allowed and permission granted for demolition of vacant dwelling and workshop and the erection of 10 dwellings (9 dwellings net).

LU/152/10, New Cottage Toddington Lane for demolition of existing dwelling and garage, and redevelopment to provide 3 x 4 bedroom houses and 2 x 3 bedroom houses with a new access off Toddington Lane was after 2 refusals and one dismissed appeal approved (New Cottage Gardens).

REPRESENTATIONS

Littlehampton Town Council: No objection.

2 letters of objection:

- To build a dwelling on land which was previously a garden behind the boundary fence of our property will restrict our privacy and impinge upon enjoyment of our home.
- The dwelling will over look our property.
- Numerous large trees were already cut down.

COMMENTS ON REPRESENTATIONS RECEIVED:

The planning issues will be discussed in the Conclusions.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/A

POLICY CONTEXT

Designation applicable to site:

Within built up area boundary

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
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM5	ENV DM5 Development and biodiversity
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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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 Littlehampton Neighbourhood Plan has been made and policies 1 and 2 are relevant to the determination of this 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."

The proposal is not considered to comply with relevant development plan policies in that it would affect adversely residential amenities of nearby properties contrary to Policies D DM1 and QE SP1 of the Arun Local Plan.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS**KEY ISSUES**

The key issues are principle, design and visual amenity, residential amenity, highways/traffic and wildlife.

PRINCIPLE

Whilst the area is suitable for residential development in principle, being in the built up area, such development should comply with the policies in the development plan. The key policies are D SP1, D

DM1, D DM2, T SP1, W DM1 and EEC DM1 of the Arun Local Plan.

Policy 1 of the Littlehampton Neighbouring Development Plan stresses that applications which accord with the policies in the Neighbourhood Plan will be approved, unless material considerations indicated otherwise.

Policy D SP1 of the Arun Local Plan requires 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.

National Planning Policy Framework paragraph 117 highlights that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 122 (d) NPPF states 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).

The Council acknowledges it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the National Planning Policy Framework is engaged. The proposal would deliver one dwelling in a sustainable location, nevertheless, one dwelling would make only a minimal contribution to the shortfall in housing supply. The associated social and economic benefits would be very limited.

The proposal results in significant harm to the residential amenities of immediately adjoining property in terms of overbearing and loss of outlook. The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The failure of the proposal to do this would be in direct contradiction of paragraph 124 of the NPPF and consequently the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole.

DESIGN AND VISUAL AMENITY:

Policy D SP1 of the Arun Local Plan stresses that successful development should respond to local distinctive pattern of development. Paragraph 13.2.9 of the Local Plan (Design) stresses that new development should ensure that height and massing does not interrupt or debase the rhythm of existing building/roof line or detract from the local and wider area's character. Policy D DM1 (7) expects that all development will incorporate existing and new tree planting as and integral part of the proposal.

Paragraph 127 of NPPF emphasises that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and do not undermine the quality of life or community cohesion and resilience.

The Arun Design Guide Supplementary Planning Document (SPD) adopted on 25th January 2021 is a material consideration in the determination of applications. Part P.O1 deals with infill development and

requires development to respond positively to the character, appearance and layout of surrounding buildings to provide high quality development which enhances amenity for surrounding and new residents.

The Ministry of Housing, Communities and Local Government: National Design Guide comprises a material planning consideration for the purposes of decision taking. Criterion C1 requires developments to understand and relate well to the site, its local and wider context; including the existing built development, layout, form and scale. Criterion I1 requires development to respond to existing local character and identity including the characteristics of existing built form and the elements of a place or local places that make it distinctive. Criterion B2 requires development to be of an appropriate building type and form, having regard to the height of buildings around them, the relationship with the street width, and the sense of enclosure that results.

The site is in a cul-de-sac characterised by a residential development of 10 chalet style dwellings, currently under construction to the north-east, New Cottage Gardens (LU/152/10) with access from Toddington Lane and their three storey 4 bedroom detached dwellings to the rear at their closest point 6m from the rear boundary to the north-west and detached and semi-detached two storey dwellings along Holmes Way with deeper rear gardens.

In order to facilitate the site the south-western edge of the site for 10 dwellings was removed and added to the strip of land belonging to Normandie. There are mature trees along the rear boundary of No 3 New Cottage Gardens.

Arun Design Guide, Page 128, requires that 'backland developments should be subservient to existing properties, and their layout should seek to maximise the outlook of neighbours and proposal should avoid over-development.' Habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (Page 92), back to side separation min 14m (Page 71).

The drawings show the dwelling house comfortably sitting in its plot, however they are misleading in that they fail to show the nearest neighbouring dwellings (Nos 4 and 3 New Cottage Gardens) within a distance of 11m from the proposed. The proposed dwelling would have an active frontage to the cul de sac and would fit well with the group of dwellings in a new development (LU/210/19/PL). However, given the shallow rear gardens of both nearest existing dwellings of New Cottage Gardens and the proximity of proposed dwelling, approximately 3.8 from their rear boundaries, the west side elevation of proposed dwelling would be within 11m from the rear elevation of No3 New Cottage Gardens whilst the Arun Design Guide suggests min 14m side - back separation distance between dwellings. The position of the dwelling in relation to the existing dwelling at 3 New Cottage Gardens will be discussed below.

The development would not detract from the areas character, the dwelling would match with the style, design and size of those under construction on the development site and it would be in a general conformity with those aspects of policies D SP1 and D DM1 of the Arun Local Plan 2011-2031, NPPF paragraphs 122, 127.

RESIDENTIAL AMENITY

The Arun Local Plan policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Policy QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity". Para 127 of the NPPF which states that developments should provide a high standard of residential amenity for existing and future users.

The Arun Design Guide stresses that habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (Page 92), back to side separation min 14m (Page 71).

The development would have a sufficient separation distance and position towards almost all neighbouring dwellings except No 3 New Cottage Gardens.

Back to side separation distance between proposed dwelling (side elevation) and existing No 3 New Cottage Gardens (rear elevation with habitable windows) would be 11m whilst habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (page 92, the Arun Design Guide). The dwelling as proposed would expose its large windowless flank wall to the rear elevation of No 3 New Cottage Gardens and due to its proximity it would have an adverse impact on living conditions of residents of this property resulting in an overbearing feeling of a substantial building in close proximity to their rear garden.

Existing properties Nos 3 and 4 New Cottage Gardens are substantial three storey, four bedroom buildings to the rear of New Cottage Gardens with their closest point of 6m from the rear boundary ; No 3 due to its proximity would be affected by the proposed dwelling, whereas the prospective residents, their rear garden, especially the most private area immediately to the rear of dwelling, would be overlooked from the first and second floor of No 4 New Cottage Gardens.

The proposed development would have an adverse impact to users and occupiers of nearby property resulting in harm upon their neighbouring amenity by way of overbearing and by limiting their outlook and to the prospective residents of proposal property by way of overlooking. Therefore it would not accord with policies D DM1 and QE SP1 of the Arun Local Plan, Arun Design Guide and para 127 of the NPPF.

HIGHWAYS, TRAFFIC AND PARKING

Arun Local Plan policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. Policy T DM1 requires that new development be located within easy access of established non-car transport modes/routes.

The dwelling is a part of already approved scheme under LU/210/19/PL therefore would comply with policy T SP1 of the Arun Local Plan.

INTERNAL & EXTERNAL SPACE STANDARDS:

Policy D DM2 states: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance". It is necessary to assess the proposal against internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the building is suitable for residential use.

The two storey, 2 bedroom dwelling with a Gross Internal Area (GIA) of approximately 124sqm would exceed the minimal internal space standards set out in the Technical Housing Standards Nationally Described Space Standards (2015) which is 79sqm for a 2-storey 2 bedroom home.

Policy D DM1 refers to the need for compliance with the Arun Design Guide. This replaces policy D DM3 "External Space Standards" which was deleted at the request of the Local Plan Inspector. The Arun Design Guide stresses the design of new homes should provide clear delineation of public and private spaces; incorporating a 'public front' and private 'back' to the rear of the site, providing private gardens.

Section H.04 deals with Residential Outdoor Amenity: 'Amenity spaces should be of an appropriate size and shape to be usable and enjoyable. Private rear gardens should have a minimum depth of 10.5m. Regard should be had to para 127 of the NPPF which requires development has a high standard of amenity for existing and future users.

In respect of external standards, the plot is big enough to provide sufficient rear garden space which would satisfy the requirement of Arun Design Guide and complies with policies D DM1 & D DM2 and with the guidance in the NPPF (para. 127).

BIODIVERSITY:

ALP policy ENV DM5 states: "Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

Government guidance states permission can only be granted if an appropriate survey has been carried out by a qualified ecologist at the time of year specified in Natural England's standing advice. Planning permission can be refused if there is not enough information to assess the effect on a protected species. ALP policy ENV DM5 is clear that where there is evidence of a protected species on a site, planning applications shall include a detailed survey of the subject species, with details of mitigation to avoid loss of the species.

The site is a part of residential garden, no ecological survey has been submitted to show a potential impact of the development on protected species, however this is not a reason for refusal since measures to secure Biodiversity Net Gain can be conditioned.

CONCLUSION

The proposal would result in significant harm to residential amenities of nearby property and prospective residents of the proposed therefore the adverse impact of the proposal would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework as a whole. The development is considered to conflict with the development plan, particularly policies D DM1 and QE SP1 of the Arun Local Plan, Arun Design Guide and relevant paragraphs of NPPF and consequently is recommended for refusal.

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 CIL Liable therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION**REFUSE**

- 1 Having regard to the proximity and relationship of the dwelling to neighbouring residential properties to the west, the proposal would create unacceptable living conditions for the occupants of adjoining property 3 New Cottage Gardens through overbearing, limiting their outlook and overshadowing and for the prospective occupants of proposed property through overlooking their rear garden from the first and second floor of 4 New Cottage Gardens, in conflict with policies D DM1, and QE SP1 of the Arun Local Plan, Arun Design Guide and relevant paragraphs of the National Planning Policy Framework.
- 2 **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 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.