

Recommendation Report for Planning Permission

REF NO:	LU/133/19/PL
LOCATION:	Site of Inglecroft Barn Close Littlehampton West Sussex
PROPOSAL:	Application for full planning permission for the demolition of the existing vacant dwelling and workshop and the erection of 10 detached dwellings (9 dwellings net).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal involves demolition of the existing vacant dwelling and workshop and the erection of 10 detached dwellings. Following receipt of the application, the agent appealed against non-determination. The application has been considered by the Planning Inspectorate and the appeal has subsequently been dismissed.
SITE AREA	0.48 hectares.
RESIDENTIAL DEVELOPMENT DENSITY	Approximately 21 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The boundary of the site consists of mainly 1.8m close boarded fencing.
SITE CHARACTERISTICS	The site is part of a former horticultural nursery which is now vacant and unused. The site is currently occupied by a detached two storey dwelling with brick elevations and a tiled roof. In the north-eastern corner of the site is a detached single storey building measuring approximately 15m x 7.5m. The site benefits from an existing access onto Barn Close (which is an adopted highway) and there are internal hard surfaced footpaths, a road and parking area with the remainder of the site being recently cut back and cleared with some grassed areas.
CHARACTER OF LOCALITY	The character of the locality is predominantly residential and features properties of various designs and styles. To the north, east and south of the application site is allocation SITE7 from the Arun District Local Plan. To the west of the application site is Barn Close featuring single storey bungalows of various designs and styles.

RELEVANT SITE HISTORY

LU/272/17/OUT	Outline application with some matters reserved for the erection of up to 9 No. dwellings.	ApproveConditionally 14-02-18
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Outline permission LU/272/17/OUT following advice from the Council's engineers (enclosed) was approved subject to pre commencement drainage conditions (decision notice enclosed).

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council

Objection.

- Overdevelopment of the site;
- Adverse impact on the highway both in terms of increased usage and the visibility onto Toddington Lane and the lack of social infrastructure to deal with additional housing.

One Objection

This stretch of Toddington Lane has no footpath (there is a very narrow earth ledge along the side of the road at the pinch point in Toddington Lane which gets very slippery in wet weather) and the junction between Barn Close/Toddington Lane is blind. The situation is exacerbated in Winter due to darkness at peak user times. The Highways Authority whilst not concluding that the impact is severe did state in comment on the outline application that 'the LHA are not satisfied that safe and suitable access to the site is demonstrated'.

Further the NPPF states that development should 'create safe and secure layouts which minimise conflicts between traffic, cyclists and pedestrians.' Parking at the junction will make access to the site difficult for construction and delivery vehicles.

COMMENTS ON REPRESENTATIONS RECEIVED:

County highways have no objection to the proposal in terms of highway safety. Construction traffic can be controlled by imposition of a condition.

The density of the site is readily comparable with other recent development adjoining the site.

CONSULTATIONS

Parks and Landscapes

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Environmental Health

Ecology Advisor

Surface Water Drainage Team

Ecology Advisor
Ecology Advisor
Engineers (Drainage)

CONSULTATION RESPONSES RECEIVED:

County Highways - No Objection

When LU/272/17/OUT was considered it was concluded that due to the small scale of the development the proposal could not be resisted. Matters raised were visibility from Barn Close on to Toddington Lane (existing junction serving around 12 properties) and no continuous walking route from the site to local services along Toddington Lane.

This application is for the same number of dwellings. The access details replicate the previous approval exactly. The Internal site layout is slightly different but allows for a turning head for refuse vehicles. It will remain private and be a shared surface, this is acceptable for low speed small development sites. There will need to be some footway extension into the site from Barn close and tactile paving crossing point, to link the site into the existing infrastructure.

The proposal would not have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore it is not contrary to the National Planning Policy Framework (paragraph 109), and there are no transport grounds to resist the proposal. Conditions are requested.

Comments in relation to duplicate later application LU/210/19/PL. The Construction Management Plan/Delivery Statement is very vague. It would be ideal to see a plan showing which route construction traffic will take to and from the site, along with a site plan to show site set up. These two items normally accompany a CMP.

Drainage Engineer - First Response. No Objection subject to imposition of pre-commencement conditions.

Surface water will be disposed of via soakaway. It is unclear with the currently proposed layout how sufficient room is being provided. Soakaways should be located 5m from buildings and 2.5m from the site boundary. This leaves very little available space on site.

A more detailed drainage strategy should be submitted prior to determination which should detail the potential for infiltration and examine if sufficient space will be available. Open SuDS features should be examined as a result of the wider benefits that they provide in terms of amenity value, surface water treatment, and creation of habitat.

Second Response.

The applicant has submitted further drainage details for this application. The information submitted includes winter groundwater monitoring, a result from an infiltration test, calculations, a proposed layout, and a construction detail drawing:

1. It is unclear when and where infiltration testing was completed. and only one infiltration test was completed, i.e. the testing was not completed in compliance with BRE 365. As a result, the design is not compliant with our requirements which are for winter testing to be completed at the depth and location of proposed soakaways, and for three repeat tests to occur.
2. No factor of safety has been applied to the design. A factor of safety must be applied in accordance with CIRIA.
3. Some of the proposed soakaways are located within 5m of neighbouring buildings, therefore the

design would not be compliant with building regulations and would not be able to be implemented as it currently stands.

4. Catchpits must be provided upstream of all connections to soakaways. These are required to minimise siltation within soakaways.

5. No levels have been provided on the plans. These must be provided.

6. No maintenance details have been provided.

7. The construction detail drawing of the soakaways does not clearly identify cover depth requirements over crates.

8. Construction detail drawings need to be submitted of manholes, pipe bedding details, and silt traps.

These details should be provided prior to determination or that pre-commencement conditions should be imposed. This information is fundamental to ensuring that the development does not increase flood risk elsewhere and is therefore compliant with the NPPF. Our requirements for surface water drainage are more stringent than those of building regulations, building regulation requirements are outdated and would not ensure that the development does not increase flood risk elsewhere now and in the future. It should also be noted that our requirements are fully in line with WSCC policy for surface water drainage which has been adopted by ADC.

Furthermore, we require sufficient information (levels and construction detail drawings) to check if a development has been constructed in accordance with approved plans. It would be far more efficient (time and money) for the applicant to provide these details now or accept the conditions. They should be able to address the majority of the points set out above in the near future. If details of when and where infiltration testing was completed can be provided this will enable me to advise you further on whether a compromise may be able to be achieved.

The applicant may wish to look at complete our checklist which clearly sets out the level of detail we require to avoid pre-commencement conditions or to discharge a condition.

County Drainage Engineer - No Objection.

Current surface water mapping shows that the site is at low risk from surface water flooding. The area of the proposed development is shown to be at high risk from groundwater flooding based on current mapping. The Foul and Surface Water Statement (within the Supporting Statement) included with this application state that soakaways would be used to control the surface water runoff from the site. This method would, in principle, meet the requirements of the NPPF, PPG and associated guidance documents.

It is recommended that this application be reviewed by the District Council Drainage Engineer to identify site specific land use considerations that may affect surface water management and for a technical review of the drainage systems proposed. The disposal of surface water via infiltration/soakaway should be shown to have been investigated through winter groundwater monitoring in conjunction with the District Drainage Engineer.

Development should not commence until finalised detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, for the development have been submitted to and approved in writing by the Local Planning Authority.

Ecology Officer - First Response. No information has been submitted on the ecological impact of the proposals. To enable the application to be determined we would expect a Phase 1 Habitat Survey, with potentially additional phase 2 surveys as recommended by the Phase 1 survey, to be submitted with the planning application. Due to the demolition of the existing vacant building, we would also expect to see a bat survey for the building, unless the Phase 1 survey concludes that there is negligible risk of bats using the building.

Second Response - With regards to the above proposal, previously ecological surveys, including potentially a bat survey, were requested for the site. Following feedback and photos provided for the site by the planning officer, it is evident that the site has been cleared of substantial vegetation since the aerial photos on our mapping system have been taken. Due to the lack of vegetation and the age of the house and workshop and the lack of bats in the vicinity of the site (confirmed by a data search from the Sussex Biodiversity Records Centre) there is a low likelihood of bats and other protected species using the site and therefore surveys will not be required. However a precautionary approach should be taken in the absence of surveys which should be controlled by condition.

Environmental Health Officer - comments submitted on behalf of identical, undecided, application reference LU/210/19/PL.

No objection subject to pre commencement construction management and contamination conditions and a pre occupation condition requiring electric vehicle charging points.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Whilst no ecology reports have been submitted with the application there are no habitats suitable for any protected species present on the site and no evidence that any protected species are using the site. The site has been cleared and laid to grass with no trees suitable for bat roosts.

Given that the applicants, following the comments from the County and District Drainage Engineer's , failed to agree to a precommencement drainage condition the Council would have refused the application on flooding grounds.

POLICY CONTEXT

Designation applicable to site:

Within built up area boundary.

DEVELOPMENT PLAN POLICIES

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

SDSP2	SD SP2 Built-up Area Boundary
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
QESP1	QE SP1 Quality of the Environment
ENVDM5	ENV DM5 Development and biodiversity
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
TSP1	T SP1 Transport and Development

[Littlehampton Neighbourhood Plan 2014 Policy 1](#)

The Presumption in Favour of Sustainable Development

POLICY COMMENTARY

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

The Neighbourhood Development Plan

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.

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 has not been satisfactorily shown that the proposal will not result in unacceptable flooding of the site and that contamination and construction management have been adequately addressed.

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 application seeks permission for the construction of 10 no. dwellings. The site is situated within the built up area boundary as defined by policy SDSP2 of the Arun Local Plan and Policies 1 and 2 of the Littlehampton Neighbourhood Plan where the principle of development is acceptable subject to accordance with relevant development plan policies.

The majority of the site, with the exception of the northern most portion, falls within the formerly SITE7 strategic allocation of the Arun District Local Plan 2003. The SITE7 allocation included land to the east of the application site which has already been developed as well as Windroos Nursery which has been the subject of other recent applications for residential development.

The SITE7 allocation sought development at a minimum density of 30dph; 30% affordable housing; improvements to the A259; public open space in accordance with the Council's adopted standards; infrastructure or contributions as required by the statutory authorities; and that effective attenuation measures to protect dwellings from noise from the road and neighbouring businesses.

Policy SITE7 (i), (ii), (iv) and (v) all relate to planning obligations which in this case are not relevant by virtue of the number of dwellings proposed.

It is acknowledged that the proposed development would constitute a residential density of below the requirements of Policy SITE7 of the Arun District Local Plan 2003. However, the proposed development site sits outside of the primary SITE7 development and is more closely related to Barn Close in terms of its character. Given that Barn Close is characterised by detached and semi-detached properties it is considered that the proposed density is acceptable.

Therefore, it is considered that the principle of the proposed development accords with policies SD SP2 and D DM1(1) of the Arun Local Plan and the NPPF.

DESIGN AND VISUAL AMENITY

The density of the proposed development equates to 21 dwellings per hectare (dph).

Land to the west of the application site is characterised by predominantly detached properties where the density of development around Barn Close equates to approximately 14dph. Policy SITE7 which surrounds the application site to the north and east requires development at a minimum density of 30dph. Therefore, at 21dph the proposed development will appear well integrated with Policy SITE7 and existing development within Barn Close.

The dwellings are laid out along an internal access road with small gaps to the side boundaries which reflects the gaps between the dwellings in Barn Close. The application also provides a similar set back from the road frontage and the dwellings at the site entrance follow the pattern of development in Barn Close. The detached nature of the dwellings is more akin to the properties in Barn Close and Toddington Lane to the west than the newer dwellings to the east. The dwelling type and design in the area is mixed and the proposed chalet style units would act as a transition between the bungalows in Barn Close and the 2 storey properties to the west.

The proposed materials include render, weatherboard cladding, vertical tiling, flint block work, face brickwork, quoins and concrete tile roofs which are all present on the adjoining properties which vary in age and design. Precise details can be conditioned.

There are no landscape features within the site which has been cleared but it is proposed to request that a landscaping condition is imposed to ensure that some tree planting is provided to enhance an area that is currently devoid of any beneficial landscape features.

RESIDENTIAL AMENITY

At the closest point the dwellings (plots 3 & 4) are sited 9m from the rear boundary with Hollist Chase with the exception of plot 3 where the side boundary is 3m from Hollist Chase. Given the design of these proposed chalet style properties (4.7m to eaves and 7m to ridge), these distances are considered satisfactory to prevent any materially adverse overbearing impact.

There are no windows indicated in the side elevations of the dwelling and the introduction of further windows in the side elevations of plots 2, 3 and 10 could be controlled by condition. The back to back distances of 18m to properties in Hollist Chase are considered adequate to prevent materially adverse overlooking. The application is therefore considered to accord with policy DDM1 of the Arun Local Plan.

However, in terms of the impact of the development upon the residential amenity of neighbouring properties during construction it is considered that this could be adequately controlled through the use of a suitably worded construction management condition. The scheme submitted by the agent does not adequately cover operating hours and delivery times. Agreement to the imposition of a pre-

commencement condition was sought, but not agreed.

HIGHWAYS AND PARKING

The application proposes access to the site via Barn Close which is an established residential close leading onto Toddington Lane. This application is for the same number of dwellings. The access details replicate the previous approval exactly. The Internal site layout is slightly amended.

As identified by WSCC the proposed access would not give rise to severe impacts to highway safety and as such the proposal is deemed to accord with paragraph 109 of the NPPF.

The current layout and parking arrangements for the site are considered to be acceptable in accordance with policy TSP1 of the Arun Local Plan.

ECOLOGY AND BIODIVERSITY

There are no trees within the site. The Council's ecology advisor has raised no objection subject to the use of suitably worded conditions.

DRAINAGE CONSIDERATIONS

The application includes a Drainage Strategy which has been reviewed by the Council's Drainage Engineer. She has advised that the proposal requires additional drainage details which should be the subject of a pre commencement condition to ensure that the development does not increase flood risk elsewhere and is therefore compliant with the NPPF. These requirements are fully in line with WSCC policy for surface water drainage which has been adopted by ADC.

On the 17th June, nearly 3 weeks before the appellant submitted their appeal, the case officer emailed to say "I also note that you have challenged the conditions suggested by our drainage engineer. Your consent would be sought prior to these being imposed as pre-commencement conditions and should your agreement not be forthcoming it is likely that this would also form a refusal reason." It was clear from this email that had this agreement been obtained permission would have been granted. In his response of the same day the agent declined to accept such a pre commencement condition on the grounds that it failed the test for imposing a planning condition.

Some of the proposed soakaways are located within 5m of neighbouring buildings, therefore the design would not be compliant with building regulations and would not be able to be implemented as it currently stands. The proposal cannot therefore be recommended for approval based on the drainage details currently submitted. It would not be reasonable to allow a development layout that may need to be amended following approval in order to comply with drainage requirements. Without agreement to a pre-commencement condition the development could take place and would need to be altered once construction has begun. The drainage details therefore need to be agreed either as part of the application (insufficient information has been submitted in order to do this) or as a pre-commencement condition.

Furthermore, sufficient information (levels and construction detail drawings) are necessary to be able to check that development has been constructed in accordance with approved plans. The proposal would not accord with policy W DM3 of the Arun Local Plan in that it is unclear when and where infiltration testing was completed and only one infiltration test was completed, (i.e. the testing was not completed in compliance with BRE 365 as referred to in parts g & h of the policy).

No factor of safety has been applied to design as required for compliance with the document produced by CIRIA referred to in part (f). Part "f" of policy W DM3 requires development to contain excess flows within the site and the submitted details do not demonstrate that flooding will not occur elsewhere.

The proposal is also contrary to policy W DM2 (f) which requires new drainage systems to be designed to take account of events which exceed the normal design standard (i.e. consideration of flood flow routing and utilising temporary storage areas).

The relevant extracts from BRE 365 and CIRIA are included with this report as an appendix.

The proposal is therefore in conflict with policies WDM2 and W DM3 of the Local Plan and paragraph 163 of the NPPF.

CONTAMINATION OF SITE

The site is a former glasshouse nursery site where pollutants may have been used and contamination of soil is possible. Therefore in order to ensure that any contamination from pollutants is satisfactorily addressed a pre commencement is suggested in accordance with the comments of the environmental health officer. The agent has indicated he would not agree to imposition of pre-commencement conditions. The proposal therefore does not accord with policies DDM1 (3) and QE DM4 of Arun Local Plan.

SUMMARY

The proposal is considered to be acceptable in principle. However the proposal would give rise to unacceptable drainage, construction and contamination impacts without imposition of pre commencement conditions.

The agent has appealed to the Planning Inspectorate on the basis of non-determination of the application and the appeal has been dismissed. The Inspector concluded that for the proposed development to be acceptable, all three suggested pre-commencement conditions would need to be imposed. Moreover, there is clear justification for these to be conditions which would have to be discharged before development commences. Given that the Appellant has not agreed in writing to their imposition as required by legislation, the only conclusion that can be made having found such conditions would meet the requirements of Paragraph 55 of the Framework, is that the appeal must fail.

Therefore, it is recommended that planning permission is refused for the following reasons.

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 refusal 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

REFUSE

- 1 The application is not supported by an acceptable drainage strategy and the applicant has not agreed to the imposition of a pre-commencement drainage condition to ensure that one is agreed with the Council prior to any works taking place. It has not therefore been demonstrated that the proposal will not result in unacceptable risk to flooding and as such the proposal would be contrary to policies WDM2 and WDM3 of the Arun Local Plan and the National Planning Policy Framework which seek to prevent unacceptable flood risks arising from proposed development.
- 2 The application is not supported by an acceptable Construction Management Plan and the applicant has not agreed to a pre commencement condition requiring one to be agreed with the Council. Without one the proposal will have an unacceptable impact on the residential amenities of neighbouring residents by way of general disturbance and noise contrary to policies DDM(3) and QE DM3 of the Arun Local Plan.
- 3 The application is not supported by an acceptable Preliminary Risk Assessment or Site Investigation Scheme and the applicant has not agreed to a pre commencement condition requiring one to be agreed with the Council. Without one the proposal will have an unacceptable impact on the residential amenities of neighbouring residents by way of pollution contrary to policies DDM1 (3) and QE DM4 of the Arun Local Plan.