

Recommendation Report for Removal of a Planning Obligation

REF NO: LU/18/19/PO

LOCATION: 41 Western Road
Littlehampton
BN17 5PG

PROPOSAL: Application for removal of planning obligation imposed on planning reference LU/192/90 dated 3/9/1991 referring to the occupation of the cottages

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to remove the planning obligation relating to planning permission LU/192/90, which restricted the use of the outbuilding solely for purposes incidental to the use of 41 Western Road as a single private dwellinghouse.
TOPOGRAPHY	Predominantly flat
TREES	None of affected by the proposed development.
BOUNDARY TREATMENT	Approximately 2m high fencing and planting enclosing the rear of the property.
SITE CHARACTERISTICS	The application site features a Grade II Listed Building, known as 41 Western Road, with an outbuilding directly to the rear. The outbuilding is the subject of this application. It is the outbuilding that previously granted application ref: LU/192/90 for the sought to restrict solely for purposes incidental to the use of 41 Western Road.
CHARACTER OF LOCALITY	The site is situated within a Conservation Area

RELEVANT SITE HISTORY

LU/192/90	Rehabilitation and rear extension to existing outhouse	App Cond with S106 03-09-91
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REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council
No objection

2 letters of neighbour objection have been received:

Issues with existing parking levels.

Existing issues with emergency service vehicles being blocked in.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted and where a material planning consideration will be addressed in conclusions section.

CONSULTATIONS

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

CONSERVATION OFFICER: Does not object.

No comments to make as this application relates purely to a planning obligation linked to the property.

However, it is worth noting that as the property is statutorily listed, all of the buildings within the curtilage will be protected by the relevant legislation. All alterations to these building will therefore require the appropriate Listed Building consent to be sought prior to any works being undertaken.

LEGAL: Have Commented on this application. They were asked to comment on whether the Council as an LPA can determine whether a Planning Agreement entered into under Section 52 of the Town and Country Planning Act 1971 can be discharged in the form of a planning application.

The planning Agreement is a contract and it can be amended by agreement between the parties. Therefore the Local Planning Authority can accept and consider an application to amend a Planning Agreement e.g. to amend or remove a planning obligation.

COMMENTS ON CONSULTATION RESPONSES:

Comments Noted.

POLICY CONTEXT

Designation applicable to site:

Grade II Listed Building

Within Conservation Area

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
WDM3	W DM3 Sustainable Urban Drainage Systems
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development

[Littlehampton Neighbourhood Plan 2014 Policy 1](#) The Presumption in Favour of Sustainable

Development

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.

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 relevant policies of the Littlehampton Neighbourhood Plan have been taken into account in the determination of the 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 considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the heritage asset of the building, 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

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 site features a Grade II Listed Building, known as 41 Western Road, with an outbuilding (extended former outhouse) to the rear of the main property. The outbuilding is the subject of this

application. Previously granted application ref: LU/192/90, for the rehabilitation and rear extension to existing outhouse, the section 52 planning agreement sought to restrict the existing outbuilding solely for purposes incidental to the use of 41 Western Road as a single private dwellinghouse.

The plans submitted at the time clearly intended the extended building to be used for residential accommodation. Planning permission was granted with the restriction that this accommodation be used incidental to the main dwellinghouse and the information given is that it was used for many years by a relative as an annex. The applicants are seeking to remove this restriction (Obligation) so that the outbuilding can be, as stated on the submitted application form, be let / Inhabited by different inhabitants / tenants.

Local Planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

The National Planning Policy Framework States that:

56. Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

From an assesment of previously granted application ref: LU/192/90 does not detail why the Officer imposed the restriction. However, Officers consider it likely that as the applicant was not requesting it to be an independent dwelling/separate planning unit and had not given full details e.g. parking, access etc.

Development is acceptable in principle in accordance with all relevant Policies of the of the Arun Local Plan 2011-2031 covering such issues as visual amenity/character, residential amenity, highway safety and parking.

CHARACTER AND DESIGN:

Policy D DM1 of the Arun Local Plan 2011-2031 (ALP) requires that the Council have regard to certain aspects including:

- (1) Character - "Make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features.";
- (2) Appearance/attractiveness - "Demonstrate a high standard of architectural principles, use of building materials, craftsmanship and hard and soft landscaping to reflect the local area";
- (13) Density - "The density of new housing will make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. Proposals should take into account the density of the site and its surroundings. The density of large sites should be varied to guard against uniformity"; and
- (14) Scale - "The scale of development should keep within the general confines of the overall character of a locality unless it can be demonstrated that the contrary would bring a substantial visual improvement."

Furthermore, policy D SP1 "Design" states that all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details.

As aforementioned, the outbuilding is already in situ as it was previously granted permission incidental to

the use of 41 Western Road as a single dwellinghouse. It is considered that under previously granted application ref: LU/192/90 the Officer would have had to consider the impact of the outbuilding on the street scene and wider area and any parking/highway implications. Therefore in granting the application it would have been considered that it would not have a detrimental impact on the streetscene or wider area, with regard to design and visual amenity. Following the Officer's site visit it is noted that limited views of the proposal are available above the gate to the front of the access alleyway. Therefore it is agreed that the proposal would not have a detrimental impact on the streetscene.

Officers note that the outbuilding is single storey and sited in part to the rear of number 41. Having regard to development along Western Road it is considered that the general character of development is broadly characterised by development that fronts the road (highway). When the outbuilding is taken as a separate unit of accommodation (dwelling) it is considered that the proposal would be contrary to the general pattern of development of development within the area. However, It is considered that having a separate unit of accommodation in this position is considered to be no more detrimental than having an outbuilding which is used for purposes incidental to the use of Western Road as a single private dwellinghouse, with regard to Character and design.

As such, it is considered that the proposal would comply with Policy D DM1 of The Arun Local Plan.

IMPACT ON LISTED BUILDINGS:

Policy HER DM1 of the Arun Local Plan states the criteria, a-e, that proposals affecting statutory Listed Buildings will be required to comply with. Of note is that proposal affecting Listed buildings will be required to:

- a. Preserve or enhance the historic character, qualities and special interest of the buildings;

The outbuilding is situated very close to the rear of the Grade II Listed Building known as 41 Western Road. No details regarding the impact of removing the restriction on the Listed Building have been provided. Officers note that the outbuilding as extended was granted under previous application ref: LU/192/90. Therefore, Officers do not question the impact of the outbuilding on the Listed Building with the Incidental use restriction, as per the section 106 agreement.

When the outbuilding is taken as a separate dwelling, without the planning obligation, Officers continue to consider that it would not have a detrimental impact upon the on the Listed Building, anymore than it does already as annexe to 41 Western Road.

As such, it is considered that the proposal would comply with Policy HER DM1 of the Arun Local Plan.

RESIDENTIAL AMENITY:

The removal of the planning obligation would mean that the outbuilding would become a separate unit of accommodation, without any obligations in place tying it to 41 Western Road. At the time of the Officer's site visit it was noted that the outbuilding was 'outfitted' as a 1 bedroom dwelling. Within the outbuilding there was a kitchen, bedroom with and lounge. Also there was a rear amenity space (garden) provided, which was separated from the garden of adjoining property number 41 by a wooden fence approximately 1.8 metres in height. The fencing in place is not close boarded and features a latticework pattern that allows views through. While the fencing allows views through they are not considered to be such that they would be detrimental to the occupiers of number 41. The applicant has provided a plan and a list of planting that they have or will plant in order to add additionally screening along the fence line. These plants could be removed or die allowing views through the fencing. As aforementioned, these views are not considered to be detrimental such that would warrant refusal. A close boarded fence could be erected and changed in the future without requiring planning permission (dependant on height). The

Occupiers/owners of number 41 could in the future erect their own close boarded fencing on their side of the existing fencing if they required further screening. Therefore, Officers do not consider that the views available through the boundary fencing would warrant refusal of this application.

The outbuilding was granted with a number of rooflights and windows and it is considered that these windows do not have a detrimental impact on the occupiers of adjoining properties, with regard to overlooking as they are high level.

Of note there are 3 windows in the side elevation of the outbuilding which face toward the rear amenity area of adjoining property number 41. These were granted consent as per LU/192/90. One of the windows is a stained glass style window which serves the bedroom and is set in a gable end at a high level not therefore providing any views out toward number 41. The other 2 windows are set at a lower level within the side elevation and are set behind the existing boundary fencing, which features a fairly tight lattice work. Additionally the applicant has and is to plant a number of bushes and planting, including climbers, along the boundary.

Therefore it is considered that any views would be adequately screened and would not be detrimental upon the occupiers of number 41 and in any event were granted permission under LU/192/90. Therefore officers do not consider that the proposal would have a detrimental impact on the occupiers of adjoining properties with regard to overlooking.

It is also considered that as the proposal has previously been given planning permission it would continue to not have a detrimental impact upon the occupiers of adjoining properties with regard to overbearing impact, overshadowing and loss of light/sunlight.

As such, it is considered that the proposal would comply with Policy D DM1 and D DM4 of the Arun Local Plan.

DRAINAGE:

The outbuilding has been used for a number of years as an annexe for a single person, as granted and as such it is considered that there are no drainage issues.

As such it is considered that the proposal would comply with Policy D DM3 of the Arun Local Plan.

SPACE STANDARDS:

Policy D DM2 of the Arun Local Plan applies (Internal space standards) which confirms that the planning authority will require internal spaces to be an appropriate size having regard to the Nationally Described Space Standards. Having regard to the Technical housing standards - nationally described space standard

The outbuilding features 1 bedroom, kitchen, lounge and a shower room. Having regard to the Nationally Described Space Standards a 1 bed roomed, 1 bed space (person) flat with a Shower room is required to have 37m squared (internal) of floor area and 1.0m square of built-in storage. While a 1 bed, 2 person flat is required to have 50m squared and 1.5m squared of built-in storage. From an assesment of the submitted annotated floor plan, the outbuilding has an overall internal floor area of 36.9m squared. No in-built storage has been shown on the floor plan. Paragraph 13.3.4 of the Arun Local Plan is also noted. This paragraph states that there that there might be occasions where development schemes cannot meet all the space standards required and these will be considered on a case by case basis. While the internal floor area falls short of the 37 square metres required, it is considered that the 0.1 shortfall is minimal. While no built- in storage is shown, it is considered that the 1.0m squared that is required could be provided within the space available. Additionally, the annexe has been used for a number of years as an annexe for a single person.

There are no external space standards available to apply. However, following the Officer's site visit, the rear amenity space is in excess of 10m in length and therefore a sufficient size.

As such it is considered that the proposal would comply with Policy D DM2.

PARKING AND HIGHWAY SAFETY:

Arun Local Plan 2011-2031 Policy T SP1 seeks to ensure that 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. In respect of parking, it states that:

"The Council will support transport and development which: incorporates appropriate levels of parking in line with West Sussex County Council guidance on parking provision and the forthcoming Arun Design Guide taking into consideration the impact of development upon on-street parking"

In respect of highway safety, it states that:

"The Council will support transport and development which: Explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Regard should also be had to paragraph 109 of the NPPF which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Objection has been raised with regard to parking issues whereby converting 41 to multiple occupancy will undoubtedly cause traffic problems with parking. There would be the potential for more cars trying to park if there are two different families take up living in the property. At a minimum, you could get four extra cars trying to park .

There is currently no off-road parking serving 41 Western Road or the annexe. Any parking provision would have to be on-road or off-road elsewhere e.g. rented garage. The outbuilding is currently an annexe and has been used as accommodation for a single person for a number of years. Therefore, the occupiers of the annexe could have had a car and parked it on the road or elsewhere. As aforementioned the building known as the annexe is considered to be 1 bedroom, 1 person (bed space) single storey property. Therefore, officers do not consider that the removal of the planning obligation would not lead to any more parking issues than may already occur. Therefore, it is considered that the proposal would not have any further impact than has already been approved with regards to parking or highway safety.

As such, it is considered that the proposal would adhere to policy T SP1 of the Arun Local Plan.

NEIGHBOURHOOD DEVELOPMENT PLAN:

It is considered that the proposal would comply with the relevant Policy of the Littlehampton Neighbourhood Development Plan in this case, Policy 1.

SUMMARY:

As a result of the above assesment Officers consider that were the annexe to be come a separate dwelling it would not have a detrimental impact on the occupiers of adjoining properties, the streetscene

or wider area. Therefore, it is considered that the request to remove the planning obligation previously applied to application ref: LU/192/90 should be granted.

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