

Recommendation Report for Planning Permission

REF NO: LU/371/21/PL

LOCATION: Holly Tree Cottage
1A Northway Road
Littlehampton
BN17 7JX

PROPOSAL: Variation of Condition following grant of LU/284/19/PL relating to Condition no 8 - integration of bat bricks, tiles or tubes amended to include 5 common bird nest boxes within the development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to vary the wording of condition 8 of LU/284/19/PL which relates to the bat bricks, tiles and tubes.
TREES	None of any significance affected by the development.
BOUNDARY TREATMENT	Hedging/fencing to rear gardens and site frontage to approximately 2m.
SITE CHARACTERISTICS	Empty overgrown site. Shed in corner.
CHARACTER OF LOCALITY	Residential comprising predominantly 2 storey terraced properties of similar appearance, uniformly set back from narrow unadopted road frontage with relatively long front gardens.

RELEVANT SITE HISTORY

LU/284/19/PL	2 No semi detached 3 bed houses.	ApproveConditionally 13-03-20
--------------	----------------------------------	----------------------------------

An application was approved under LU/28419/PL for the construction of 2No. dwellings. This application seeks to vary a condition of that permission.

REPRESENTATIONS

Littlehampton Town Council provided no objection.

A letter of representation was received.

- There is a discrepancy with the size of the plot.
- There is a covenant on part of the land.
- Northway Road should not part of the site plan.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. The development has been approved as part of LU/384/19/PL. Issues with regards to access and size of the site will have been assessed as part of the previous application and are not included in this application. This application seeks to amend the wording of a condition on the original permission relating to biodiversity on the site.

Any issues with access which is a private road and covenants would be a private matter and could restrict the permission from being implementable.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Ecology - Provided the bird/bat boxes are installed as per the statements then no further information is required.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

- Built-Up Area Boundary

DEVELOPMENT PLAN POLICIES

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

ENVDM5 ENV DM5 Development and biodiversity

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.

There are no policies contained within the Made Littlehampton Neighbourhood Development Plan that would impact upon 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 considered to comply with relevant Development Plan policies in that there would be no adverse impact on the biodiversity at the site.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE

The site is in the built-up area where the principle of development by the variation of condition development is acceptable. In this instance, the main criteria against which the application will be assessed are contained within Arun District Local Plan policy ENV DM5 which in the first instance, seeks to achieve a net gain in biodiversity and protect existing habitats on site.

INTRODUCTION

This proposal seeks to vary the wording of the condition 8 relating to bat/bird bricks, tiles and tubes imposed on LU/284/19/PL. All other matters remain as approved and do not form part of consideration of this application.

Condition 7 stated' No vegetation and building clearance shall be undertaken within the nesting bird season (March to September inclusive). Should vegetation and building clearance be required within these times then any vegetation and/or buildings to be removed or disturbed should be checked by a suitably qualified ecologist for nesting birds within 24 hours prior to works commencing.

Following investigations it was discovered that some clearance works had taken place on site without prior checking of an ecologist in conflict with the condition. As a result compensatory measures are proposed. This would alter the wording of condition 8 and as a result the application seeks to vary this condition.

Condition 8 stated:-

"No development above damp proof course level shall be undertaken until details providing the integration of bat bricks, tiles or tubes facing south/south westerly directions, positioned between 3-5m above ground, have been submitted and approved by the Local Planning Authority in writing. Once provided on site the agreed measures shall be maintained in perpetuity at all times thereafter.

Reason: To safeguard bats in accordance with policies ENV SP1, ENV DM1, ENV DM3 and ENV DM5 of the Arun Local Plan."

IMPACT ON BIODIVERSITY

A statement submitted with the application notes 'In order to mitigate the actions undertaken, which is

highly likely to have resulted in the loss of nesting bird habitat, compensation measures are proposed'. This would involve the incorporation of 5 common nesting bird boxes to be installed across the site.

Two 1SP Schwegler 'sparrow terrace boxes shall be placed upon new buildings in any location close to the soffit boards and at least 3.5 metres in height and three Schwegler 1B nest boxes shall also be installed at least 3.5m high on any trees retained or upon external walls of the property where necessary.

Details are also submitted with regards to the addition of bat boxes on site. It notes the boxes should be located:

- Where bats are known to feed and navigate (close to hedges and tree lines);
- Ideally at least 4m above the ground (where safe installation is possible);
- Away from artificial light sources (to protect them from predation); and
- Sheltered from strong winds and exposed to the sun for part of the day (usually south, south-east or south-west).

Ecology have been consulted and specify the details are acceptable. The use of the bat/bird boxes is considered to help contribute to biodiversity on the site.

SUMMARY

The proposed development complies with Development plan policies and para 11c of the NPPF and is recommended for permission subject to the amended following condition.

HUMAN RIGHTS ACT

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

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

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

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

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

RECOMMENDATION

APPROVE CONDITIONALLY

1 Condition 8 imposed under LU/284/19/PL is amended to read:

Prior to occupation, the mitigation measures as provided in the statements submitted with this application shall be implemented in their entirety and include;

- Two 1SP Schwegler 'sparrow terrace boxes to be placed upon new buildings in any location close to the soffit boards and at least 3.5 metres in height.
- Three Schwegler 1B nest boxes shall be installed at least 3.5m high on any trees retained or upon external walls of the property where necessary.
- 2 x Bat boxes to be installed in line with details included in Bat/Bird Box statement (22/11/21) (LU/284/19/PL).

The details approved shall be retained in perpetuity.

Reasons: To enhance the environment for local wildlife and result in net biodiversity gain, in accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan.

2 INFORMATIVE: All other conditions imposed on LU/284/19/PL remain in place.

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 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.