Recommendation Report for Planning Permission

REF NO: **LU/46/15/PL**

LOCATION: Director's Cottage
Toddington Lane
Littlehampton

PROPOSAL: Application for the removal of condition 7 imposed under LU/113/64/ relating to agricultural occupancy.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This report relates equally to: LU/45/15/PL 1-3 Dutch Cottages Toddington Lane Littlehampton BN17 7PP Application for the removal of condition 2 imposed under LU/337/68/ relating to agricultural occupancy. LU/46/15/PL Director's Cottage Toddington Lane Littlehampton BN17 7PP Application for the removal of condition 7 imposed under LU/113/64/ relating to agricultural occupancy. Both of the above permissions include a condition restricting the occupation of the dwellings to people employed, or last employed, locally in agriculture. Removal of these conditions would allow generally open market occupancy on an unrestricted basis.
SITE AREA	LU/45/15/PL - The site area is approximately 0.15 hectares. LU/46/15/PL - The site area is approximately 0.14 hectares.
TOPOGRAPHY	Predominantly flat, although these dwellings are on land raised some 1.5m above road level.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The front boundaries of these dwellings are generally open, although Directors Cottage

	has ranch style fencing. boundaries generally elsewhere are a mixture of planting and fencing.
SITE CHARACTERISTICS	The application dwellings are bungalows. Directors Cottage is detached and Dutch Cottages are a slightly staggered terrace.
CHARACTER OF LOCALITY	To the south of this part of Toddington Lane and nearby the land is in the process of being developed for residential purposes. To the north, the land at present is horticultural/agricultural in character.

RELEVANT SITE HISTORY

LU/47/11/	Outline application with some matters reserved for mixed use development comprising: demolition of existing buildings and structures, up to 1,260 residential dwellings (out of a potential 1,460 dwelling masterplan), up to 13,000 sqm of B1 employment floorspace (including 3,000 sqm Enterprise Centre), up to 3,500 sqm of Class A local facilities, a 100 bed hotel, 60 bed care home, a new 2 Form Entry primary school, community centre, youth and leisure facilities, combined heat & power plant, extension to existing household recycling centre, landscaping, replacement and additional allotments, multi-functional green infrastructure including sports pitches (& associated changing facilities), informal open space, children's play areas, primary vehicular access from a new access from the A259 bridging over the railway line with additional access from Mill Lane & Toddington Lane. This application is the subject of an Environmental Impact Assessment & a departure from the development plan. This application affects a public right of way.	Approved Cond + S106 23-01-2013
LU/113/64	Bungalow and garage for use in nursery management	Approve 08-06-1964
LU/249/68	Outline application for 3 single storey dwellings for workers	ApproveConditionally

		23-10-1968
LU/337/68	Erection of 3 bungalows	ApproveConditionally
		03-01-1969

The previous planning permission both have conditions attached which restrict occupation of the dwellings to people employed, or last employed, locally in agriculture.

Other original planning conditions are performance related to the then proposed dwellings and would not now need to be maintained, given that development has been carried out and these conditions did not require any on-going compliance, such as 'shall be thereafter maintained' for instance.

The site of both planning applications are in close proximity to each other and are located within an area for which planning permission has been granted for mixed use development, including significant levels of residential development. LU/117/15/RES relates to residential development between the application dwellings and to the west of Directors Cottage and also to the north of the application dwellings.

The application sites sit within the wider planning permission granted under LU/47/11/PL which is for:

Mixed use development comprising: demolition of existing buildings and structures, up to 1,260 residential dwellings (out of a potential 1,460 dwelling masterplan), up to 13,000 sqm of B1 employment floorspace (including 3,000 sqm Enterprise Centre), up to 3,500 sqm of Class A local facilities, a 100 bed hotel, 60 bed care home, a new 2 Form Entry primary school, community centre, youth and leisure facilities, combined heat & power plant, extension to existing household recycling centre, landscaping, replacement and additional allotments, multi-functional green infrastructure including sports pitches (& associated changing facilities), informal open space, children's play areas, primary vehicular access from a new access from the A259 bridging over the railway line with additional access from Mill Lane & Toddington Lane.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

Littlehampton Town Council has no objection to either application.

There is one objector to the application relating to Directors Cottage. The objections relate to:

1. That there is still a requirement in the area for dwellings for agricultural/horticultural occupancy.
2. The tenants of 2 of the 4 dwellings remain employed locally in agriculture and there is therefore a need to retain the dwellings for that occupancy.
3. Disconnection of sewage and telephone to Directors Cottage. (Not a material planning consideration).
4. That the market value of the property would increase if the condition was removed. (Not a material planning consideration).
5. Various landlord tenant issues (which are not material planning considerations).
6. The Certificate of Ownership being incorrect. (This is not correct and the Certificate of

Ownership has been correctly completed).

Comments on Representations received:

In respect of the objections, the applicant's agent has commented:

The two later letters refer to problems with sewerage and whilst this is not strictly related to the application it is it is important that I answer this. I am told that the four properties all drain to a small processing unit situated between the dwellings. The difficulties described arose due to an electric supply being disconnected. This was an error by the new owners of the large development site which I understand has now been remedied. I understand that drainage to the four properties will soon be working normally, if this is not the case already.

I turn now to the issues of agricultural occupancy:-

It is clear from the planning history that planning permission was granted for the Director's Bungalow in 1964 and for the three bungalows in 1968, due to the specific needs of the nursery business on the site. This was a very active and productive nursery business that once extended to at least 120 acres of land with 40 acres of glasshouses.

Clearly this situation has now changed with the land no longer used for growing, the glasshouses vacant, and permission granted for redevelopment of the whole site. As this is part of the Council's strategic housing land, there can be no doubt that the land will never again be used for agriculture/horticulture; and there will never be a requirement for agricultural workers to work the land that originally justified the dwellings.

I am aware that the condition does not restrict occupation to someone employed on this site, but allows for occupation by someone employed locally in agriculture. Consequently, it is pertinent for the Local Planning Authority to consider whether there is a need for these cottages to be retained to meet the agricultural needs of other agricultural businesses locally. In this regard, the test is not whether the cottages provide accommodation that is 'convenient' for someone employed elsewhere in agriculture, but whether there is an agricultural 'need' for that person to be accommodated locally, that can only be met by these cottages.

Consideration of need raises two key questions. Firstly, in very simple terms, if these cottages did not exist, would the Local Planning Authority accept a level of agricultural 'need' that justified permission being granted for 1-4 new dwellings on another site(s) in the countryside? If the answer to this is yes, then the second question is whether these cottages are able to meet the specific needs of that business. Only if the answer to both questions is 'yes' should the conditions on these properties be retained.

I note that the objector refers to himself and to another tenant both being employed in agriculture. He does not mention where this is located. I have no details of that employment, where it is located, or how essential it is for the two of them to be accommodated locally to meet the agricultural needs of that business/ those businesses. Hence I am not in a position where I can comment on the actual circumstances of the objector or of the other tenant.

CONSULTATIONS

Consultations responses received:

No consultees, although this Councils Drainage Engineer has considered issues raised by an objector.

Comments on Consultation responses:

Due to the drainage issues raised, the position in respect of Directors Cottage was investigated

by this Council's Drainage Engineer who has advised that:

Met with:
Tenant of Directors Cottage
Tenant of 3 Dutch Cottages
Representative of Persimmon Homes who own the neighbouring land to Directors and Dutch Cottages Further representative of Persimmon

Objector was concerned that sewerage and other services were not being given adequate protection during the development of the neighbouring land.

Sewerage
There had apparently already been one interruption to service when an electricity cable supplying the Klargester had been allegedly removed by thieves causing an overflow which destroyed the motor of the Klargester. A temporary fix has been implemented involving running electricity from 3 Dutch Cottage to a pump that ensures sewerage from 1-3 Dutch Cottages and Directors Cottage makes it to the Klargester which - in its broken state - is now just being used as a cesspit. No.3 is happy to continue funding the electricity for the pump until a more permanent solution is installed.

Although objector said that he had experienced problems with the temporary setup, no build-up of sewerage was seen on my visit.

Persimmon expressed belief that, as part of the contract for purchasing the land, Persimmon were obligated to make provision of new cesspits for each property and reroute underground drainage as required. This is likely to be a medium to long term provision depending on if a connection to the sewerage infrastructure of the new estate is possible.

Mains Water Supply
As the mains water is currently supplied to the cottages via the neighbouring land owned and being developed by Persimmon, there was a concern that an interruption to supply could occur. Persimmon assured the tenants that a company called TDS had been employed by Persimmon to ensure that the supply remained constant to the cottages.

Telecoms Connection
During a delivery of a Welfare Unit to the neighbouring Persimmon site, the overhead telecoms cable to Directors Cottage had been severed by the lorry crane. After looking at the photos that objector had taken of the event, Persimmon confirmed that Persimmon would get the cable reconnected or pay the fee for doing so.

As objector alleged he had received no response to letters sent to his landlord), ADC offered to write a letter expressing the concerns of the3 objector. This offer was declined as Persimmon appeared to be taking care of all the issues.

It is evident from the above that this Council has done more than can be reasonably expected of issues raised by the objector.

POLICY CONTEXT

Designation applicable to site:
Outside Built Up Area.

Located Within a Site Specific Area for Housing Growth (Emerging Local Plan, October 2014).

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	
Publication Version of the Local Plan (October 2014):	H DM3 Agricultural, Forestry & Horticultural Workers' Dwellings

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton.

Littlehampton Neighbourhood plan has no policies relevant to these applications.

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 visual amenities of the locality or 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

These dwellings are located within a wider site which is to be developed as what is to be in effect an urban extension. The nursery which the dwellings serve and which they are located within/adjacent to once employed a large workforce, some of whom were accommodated in staff accommodation on site. The nursery has closed and has no employees in horticulture and there is therefore no longer a need for these dwellings to serve the nursery. The applicant considers therefore that there is no longer a justified need for these dwellings to be restricted in terms of occupancy.

It is considered that the applicants view is correct that current government advice is set out in the National Planning Policy Framework (the NPPF) and in a small number of additional documents. Advice relating to agricultural workers dwellings in the NPPF is limited to paragraph 55 which advises:-
"---Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
-the essential need for a rural worker to live permanently at or near their place of work in the countryside: ---"

This advice, in March 2012, replaced the earlier advice set out in PPS7 (and specifically in Annex A), which went into considerable detail and included the need to satisfy both a functional need for the accommodation and a financial test that the agricultural activity was viable and could sustain a dwelling of the size proposed. The annex also included advice about imposing and reviewing (removing) conditions, based on on-going appraisals of the need for an agricultural dwelling.

It is clear that the original need for these dwellings to meet the needs of agriculture/horticulture has ceased in terms of the nursery which they served, as the nursery no longer functions and is to be redeveloped.

The key policy relating to this application is within the Emerging local Plan and is Policy H DM3.

This policy relates to the criteria for planning permission being granted for agricultural, forestry and horticultural workers' dwellings. It also states that such conditions will only be removed if it

can be demonstrated that the dwelling is no longer required for agricultural or forestry purposes or for any person solely or mainly employed in agriculture or forestry and that reasonable attempts have been made to market the dwelling for that use.

Some weight can be accorded to this policy as the Emerging local Plan has now been submitted and Examination commences in early June 2015.

The applicant has demonstrated that the circumstances of the sites are such that the dwellings are no longer required for the agricultural or forestry purposes or for any person solely or mainly employed in agriculture or forestry for which they were originally permitted. This is because the nursery has closed and the land is to be redeveloped. There can therefore be no reasonable expectation of an agricultural need for these dwellings in the immediate locality.

The applicant considers that whilst the four properties could, in theory, be occupied by workers from nurseries elsewhere, this would involve a commute to work and there would be no connection between these sites and any other place of work. These dwellings were specifically permitted in close proximity to the nursery in order to serve/meet the needs of the nursery, this need has now ceased.

The applicant also considers that the four properties are relatively small with very limited space around them, meaning that any agricultural/horticultural worker would have very little space for vehicles or other equipment typically associated with agriculture. Hence, whilst these dwellings once satisfied a need for the adjacent (Holland) nursery they would have very limited benefits to nurseries or farms elsewhere.

The application is not accompanied by any material relating to marketing. However, it is evident that there is no similar activity in the immediate locality which these dwellings could be reasonably expected to serve. The present situation, redevelopment of the nursery and effective removal of need is one which could not have been envisaged when the dwellings were permitted. There is also some merit to the applicants argument that the dwellings due to their size would be a much more limited utility to other agricultural/horticultural occupiers.

It is considered that on balance, this is not a case here the absence of marketing is a significant issue. The dwellings are no longer required to serve the need they were permitted for, they are less than ideal in terms of alternative agricultural/horticultural occupiers (and could give rise to detriment to surrounding residential development which is to occur) and there would appear to be no reasonable expectation of demand in close proximity.

It is therefore recommended that both applications to remove the occupancy conditions be granted. There is no need to re-impose existing conditions as these were all 'performance' related and did not impose on-going compliance requirements.

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 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

In assessing this proposal the following impacts (negative, Neutral or positive) 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).

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby approved shall be carried out in accordance with the following approved drawing:

AR11/LP1/A - Site Location Plan

Reason: For the avoidance of doubt.

2 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.