

Recommendation Report for Planning Permission

REF NO: M/22/25/PL

LOCATION: 86 Ancton Way
Middleton-on-Sea
PO22 6JP

PROPOSAL: Demolition and erection of 1 No. dwelling. This application is in CIL Zone 4 and is CIL Liable as a new dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	240sqm.
TREES	None of any significance affected by the proposed development. There is a Tree Preservation Order pertaining to a woodland to the north (rear) of the site, but the proposed development has no impact on this woodland.
BOUNDARY TREATMENT	Open boundary to the front allowing the driveway to meet the road, low boundary fencing to the sides of the front driveway, tall boundary fence and some sporadic planting to the remainder of the side and rear boundaries.
SITE CHARACTERISTICS	The site is an existing residential plot with a single storey dwelling, front driveway, rear amenity space and outbuilding.
CHARACTER OF LOCALITY	The site is a residential estate with dwellings of varying sizes and designs, establishing a mixed residential character.

RELEVANT SITE HISTORY

m/6/22/pl	Demolition of existing bungalow and erection of 1 No 2- storey, 4-bedroom detached house with 3 No off road car parking spaces. This site is in CIL Zone 4 and is CIL Liable as new dwelling.	ApproveConditionally 31-05-22
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M/6/22/PL - Whilst not an application pertaining to the site in question, this application approved a replacement dwelling of a similar design on the site immediately to the east of this proposal.

REPRESENTATIONS

Middleton Parish Council - No objection.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways - Advice:

- The proposal is not anticipated to result in a material increase in use of the existing access onto the public highway.
- Parking space quantity remains sufficient.
- Secure and covered cycle parking will be provided to promote sustainable travel.
- The proposal would not have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network.
- Cycle storage conditions recommended.

Environment Agency - No objection:

- Request a condition for the proposal to be constructed in accordance with the submitted Flood Risk Assessment.

Environmental Health - No objection.

Southern Water- No objection

- Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- Suggest an informative be attached pertaining to the need for agreement to surface water and foul water drainage disposal.

Ecologist - No objection:

- This application is exempt from Biodiversity Net Gain under the de minimis exemption.
- A bat roost assessment has been submitted and concludes negligible impact to bats or other protected species. No further surveys are required.
- A condition pertaining to ecological enhancements should be attached.

ADC Drainage Engineers - Objection with the following issues/missing information:

- Winter Infiltration testing (not site-specific nor at relevant depth).
- Hierarchy (followed but infiltration needs evidencing).
- Calculations (various technical issues and impermeable plan should support them).
- Natural Catchments (adequate if infiltration is viable).
- Plans (insufficient - Construction details inconsistent. Impermeable area plan should be provided).
- Peak groundwater level appears to be 1.23m BGL (shallow infiltration features may be viable).
- 5m easements may be necessary.
- Details of underlying geology details needed.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designations applicable to site:
 Built-up Area Boundary.
 TPO adjacent the site.
 Lidsey Wastewater Treatment Catchment Area.
 At potential risk of Groundwater Flooding.
 Flood Zone 3.
 Within a Lidsey Local Flood Risk Zone.

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
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM5	ENV DM5 Development and biodiversity
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
SPD11	Arun Parking Standards 2020

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

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 in conflict with relevant Development Plan policies in that it has not been adequately demonstrated that surface water from the site could be adequately drained without increasing flood risk elsewhere.

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

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The proposal is for the replacement of an existing residential dwelling on an established residential plot within the Built-up Area Boundary. The principle is acceptable subject to the consideration of relevant Development Plan policies.

CHARACTER & DESIGN

The existing dwelling is a single storey unit within a residential area that features a mix of designs and scales. The proposed dwelling would slightly increase the footprint of the dwelling and increase the scale to two storeys. It would adopt a style and material palette comparable to that of the recently approved replacement dwelling on the neighbouring plot immediately east of the site.

The existing dwelling virtually abuts the eastern site boundary and features a single storey extension of the west side that virtually meets the shared, western site boundary. The proposal would occupy virtually the full width of the plot and feature similar comparable separations from the neighbouring dwellings as existing, albeit with a two-storey scale.

The limited separation distances combined with the added scale and comparable design to its eastern neighbour would result in the partial erosion of the visual separation and distinction between the host and the neighbouring dwellings. However, given the existing context, this is not so harmful that it is a reason for refusal.

The proposal would not result in any unacceptable harm to the visual amenities of the locality and remains in accordance with policies D SP1 & D DM1 of the Arun Local Plan (ALP).

QUALITY OF ACCOMMODATION

The proposal is for a 2 No. bedroom property, an increase of 1 No. bedroom over the existing. It features a gross internal floor area of 102sqm and a substantial rear garden amenity space of more than 10.5m in depth. Each bedroom is of sufficient area and width and the floor to ceiling heights are in excess of 2.3m for more than 75% of the building. The proposal is compliant with the Nationally Described Space Standards and Section H.04 of the Arun Design Guide.

The proposal is in accordance with Policy D DM2 of the ALP.

ENERGY EFFICIENCY

Policy ECC SP2 requires all new residential and commercial development to be energy efficient and to demonstrate how they will achieve energy efficiency measures that reflect the current standards, use design and layout to promote energy efficiency, and incorporate decentralised, renewable, and low carbon energy supply systems such as solar panels. The inclusion of energy efficient materials such as

double glazing is expected and would be controlled at the Building Regulations stage. To ensure that adequate decentralised, renewable, and low carbon energy supply systems are provided, a condition has been attached to this decision.

Subject to the relevant condition, the proposal is in accordance with relevant Development Plan policy ECC SP2 of the Arun Local Plan.

NEIGHBOURING RESIDENTIAL AMENITY

The proposal would occupy approximately the same location as the existing dwelling but would rise to two storeys and almost abut the western site boundary. The added height and bulk of the dwelling would give rise to some adverse impacts of overbearing and overshadowing on the ground floor side facing window to the east elevation of No. 84, and the ground floor side facing window on the west elevation of No. 88.

However, the side facing window to No. 88 is a high-level window serving the kitchen and is already met by the shared boundary treatment and the existing single storey dwelling in very close proximity. The ground floor side facing window of No. 84 is a standard window. From review of historic Building Regulations applications for this dwelling, the side window in question does not serve the rear kitchen/dining room, and instead, remains either a bathroom window or a secondary window to the front bedroom area. The window also shared boundary treatment and the existing single storey dwelling in very close proximity.

Both neighbouring ground floor side windows of note provide no significant amenity outlook and have a limited access to natural light at present. The resultant harm are not such that the adverse overbearing/overshadowing impacts would warrant a refusal of this application.

At ground floor, there are to be 3 No. side facing windows on the west elevation and 2 No. side facing windows on the east elevation, all of which are to be high-level and would not produce unacceptable inter-overlooking impacts between properties.

The proposal would not introduce any side facing windows at first floor but would include first-floor front and rear facing windows that provide new viewpoints. Those to the front would look out over the street, and those facing the rear would provide oblique views of the neighbouring rear gardens that run parallel, which is to be reasonably expected in a built-up residential area and is acceptable.

By virtue of not producing any wholly unacceptable adverse impacts on neighbouring residential amenity, the proposal is in accordance with policy D DM1 of the ALP.

PARKING & TRANSPORT

The proposal would provide sufficient parking capacity for 2 No. cars which is in accordance with the Arun Parking Standards for this area. The vehicular access would remain as existing and WSCC Highways have raised no concerns in this regard.

A condition has been attached to secure the provision of cycle storage within the curtilage of dwelling. It is noted that currently, the proposed site plan locates this to the front of the site, but that the Design & Access Statement identifies such provisions would be to the back of the dwelling. Siting a cycle storage unit to the front of the site alongside the relatively cramped parking provisions would likely clutter the forward elevation in the street. The LPA would be satisfied with the provisions being situated within the rear of the site in this context and a condition could be attached to secure the finalised siting and details of the cycle storage provisions.

An electric vehicle charging point has been provided as indicated on the site plan, which is supported,

and could have been secured by way of condition. Subject to conditions, the proposal would have been in accordance with Policy T SP1 of the ALP.

DRAINAGE & FLOODING

The site is located within Flood Zone 3, a Lidsey Local Flood Risk Zone (rated as high risk for pluvial and sewer flooding), and the Lidsey Wastewater Treatment Catchment Area.

The NPPF and Policy W DM2 of the ALP outline the need for a Sequential & Exception Test when proposing development within areas at risk of flooding from any source. The Sequential Test aims to assess alternative sites at no, or lower, risk of flooding that would be 'reasonably available' for the type of development proposed.

The Exceptions Test is required to demonstrate that the proposed development would be safe from flood risk for its lifetime without increasing flood risk elsewhere, and that the development would provide wider sustainability benefits to the community that outweigh the flood risk. It is material that the site already features a residential dwelling. If the application were refused, a lawful dwelling would remain within an area at risk of flooding. On this basis, the lack of a Sequential Test alone, is not a reason for refusal.

The existing dwelling is a bungalow with no area for safe refuge in the event of a flood. The replacement dwelling would be no significantly larger in footprint, would provide an area of safe refuge for its occupiers (at first floor), and would be of superior, more modern construction. Therefore, the replacement dwelling would reduce the adverse impacts of flood risk without increasing flood risk elsewhere, which is in line with the general aims of the NPPF & NPPG.

The proposal would reduce the existing flood risk of the site, and would produce a more modern, energy efficient building with greater resistance to damage or displacement during a flood event. Additionally, once the drainage matters are resolved, the management of surface water on site would be improved with resultant benefits to the flood risk of the wider area.

Policy W DM3 of the ALP supports the use of permeable driveways in parking areas. The proposal includes a permeable gravel driveway that would replace an existing concrete driveway, which is positive.

The proposal has sought to dispose of surface water on site through an infiltration design. There appears to be no alternatives for the proposal on the basis that there are no watercourses, surface water bodies, or surface water sewers on or immediately adjacent to the site. Infiltration is the preferred method in any case due to its position in the Sustainable Urban Drainage Systems Hierarchy.

Winter Groundwater Monitoring has been undertaken on site identifying a peak winter groundwater level of 1.23m below ground level. In order to achieve the necessary 1m freeboard between the bottom of proposed infiltration systems and the peak groundwater level, shallow infiltration designs have been proposed but it remains unclear that a 1m freeboard would be achieved.

The Council's (ADC) Drainage Engineers were consulted on this application and objected on multiple grounds. These include the lack of on-site winter infiltration testing (proposal is reliant on those used for the neighbouring site), lack of clarity that a 1m freeboard would be achieved, incorrect rainfall data, lack of climate change allowances, unsuitable values within the calculations provided, lack of 5m easements between infiltration features and building foundations, and a lack of detail regarding the underlying geology.

Upon receipt of the objection from the ADC Engineers, the agent was notified of the concerns, and that the proposal would likely be refused as a result. The agent has responded to some of the Engineers

comments and sought to provide amended plans and details to overcome the objections. Whilst Officers have considered these comments, it is not clear that these would overcome the objections of the ADC Engineers in full. Moreover, it is at the discretion of the Local Planning Authority whether to accept changes to the submitted scheme, to determine if the changes need to be re-consulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted (NPPG - 061 Reference ID: 14-061-20140306).

ADC makes it clear within its published Customer Advice Note that for non-major applications, in any instance, additional or amended details will only be accepted if they are minor, would not require re-consultation, and would allow the application to be determined within statutory time limits. Although there was a delay in receiving the consultation response from the ADC Engineers, the additional information now submitted introduces changes that would require a re-consultation. This is necessary to ensure that the revised drainage details and the supporting justifications are properly assessed by ADC's relevant technical experts. As such, the additional and amended details have not been accepted as part of this application, and it has been determined on the originally submitted information.

The proposal has provided insufficient information to confirm that on-site infiltration of surface water is a viable means of draining surface water from the development. Given the lack of alternatives for surface water disposal, infiltration is likely to be the only option for disposing surface water and it must be confirmed as viable with appropriate and site-specific data and design. Otherwise, the proposal runs the risk of increasing flood risk elsewhere.

The proposal has not been supported by sufficient and site-specific evidence to confirm that the site can be adequately drained and not increase flood risk elsewhere. As such, the proposal is in conflict with policies W DM2 & W MD3 of the ALP, and paragraph 181, 182 & 187(e) of the NPPF.

FOUL DRAINAGE

The site is within a Lidsey Local Flood Risk Zone that includes foul sewer flood risk, and the Lidsey Wastewater Treatment Catchment Area that aims to ensure surface water from proposed developments is managed with particular scrutiny. The proposed surface water drainage design seeks to utilise infiltration techniques which is appropriate, and Southern Water have raised no objections to the proposal. It is also noted that the proposal is a replacement dwelling that would utilise existing agreed foul sewer connections.

ECOLOGY & BIODIVERSITY

The proposal is not liable for Statutory Biodiversity Net Gain under the de-minimis exemption. However, some Biodiversity Net Gain is still required in line with Policy ENV DM5 of the ALP. This has been demonstrated through the provision of ecological enhancement features outlined on the proposed site plan. The proposal has evidenced that it would not prejudice any protected species on the site. Subject to conditions securing the relevant ecological enhancement features, the proposal would be in accordance with Policy ENV DM5 of the ALP.

WASTE MANAGEMENT

The proposal includes the provision of a timber, sheltered waste bin storage unit that would be situated within the front of the site. This is acceptable and would facilitate street-side collection in accordance with Policy WM DM1 of the ALP.

SUMMARY

The proposal has not been supported by sufficient information regarding the proposed surface water drainage design to confirm that the site could be adequately drained without increasing flood risk elsewhere. As such, the proposal is in conflict with ALP policies W DM2 & W MD3 and paragraphs 181, 182 & 187(e) of the NPPF.

The Council cannot currently demonstrate a 5 year housing land supply and therefore the NPPF presumption in favour of sustainable development (para 11(d) (ii)) applies. This states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Given the minor nature of the benefits (considering this is a replacement dwelling) and the clear policy conflict (drainage), it has been concluded that the adverse impacts would clearly outweigh the benefits and so a refusal is justified.

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 would have been CIL liable, therefore, developer contributions towards infrastructure would have been required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 The proposal has not been supported by sufficient information regarding the proposed surface water drainage design to confirm that the site could be adequately drained without increasing flood risk elsewhere in conflict with Arun Local Plan policies W DM2 & W MD3, and NPPF

paragraphs 181, 182 & 187(e).

- 2 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. It has not been possible to resolve those matters under this planning application. The Local Planning Authority has clearly set out the harms identified within its report and the reasons for refusal - which, if addressed, may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.