

Recommendation Report for Removal of a Planning Obligation

REF NO: M/36/22/PO

LOCATION: 100 Ancton Way
Elmer Sands
Middleton
PO22 6JR

PROPOSAL: Removal of obligation granted under M/96/82 so property could be purchased by someone wishing to use it as their main residence.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks to discharge the original planning obligation and allow the dwelling to be used for permanent residential purposes by persons who are not disabled and on holiday.
SITE AREA	Approx 500 sqm
RESIDENTIAL DEVELOPMENT DENSITY (NET)	20 dwellings per hectare
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Low brick wall to site frontage. Hedging to rear.
SITE CHARACTERISTICS	Detached bungalow constructed of brick with a shallow pitched tiled roof. Parking available on site frontage or to side of dwelling.
CHARACTER OF LOCALITY	Predominantly residential characterised by detached 2 storey and single storey dwellings set back a uniform distance from the site frontage behind a verge.

RELEVANT SITE HISTORY

M/96/82	Demolition Of Existing Building & Erection Of A 4-Bed Bungalow For Use As Holiday Accom For Disabled People	ApproveConditionally 21-04-83
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Planning permission M/96/82 was subject to a Section 52 Agreement which detailed at Clause 3 that use of the property was prevented for any purpose other than as holiday accommodation for disabled persons and their attendants.

REPRESENTATIONS

Middleton Parish Council - No Objection

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Designation applicable to site:
 Within Built Up Area Boundary
 Tree Preservation Order

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
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
TOUDM1	TOU DM1 Tourism related 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, 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.

Middleton does not have a Made Neighbourhood Plan.

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 the proposed unrestricted use would have no materially adverse effect on the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

CONCLUSIONS

BACKGROUND

The building was granted planning permission under ref: M/96/82, for the erection of a 4-bed bungalow (in place of the existing railway carriage) for use as holiday accomodation for disabled people, the section 52 planning agreement sought to restrict the use of building solely for purposes of holiday accommodation for the disabled.

The applicants are seeking to remove this restriction (Obligation) so that the dwelling can be used as a residential dwelling on a permanent basis by anyone, as stated on the submitted application form.

USE OF OBLIGATIONS

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.

Para 57 of the National Planning Policy Framework States that:

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: M/96/82 it is not clear why the condition was imposed. There are no other dwellings in the locality on similar sized plots subject to such an Agreement. The original Agreement was not necessary to make the development acceptable. A bungalow in this location for unrestricted residential use would have been appropriate. Retention of the Agreement does not follow the above guidance as it would not be fair or reasonable to restrict the use.

The development is acceptable in principle in accordance with all relevant policies of the Arun Local Plan covering such issues as visual amenity/character, residential amenity, tourism,highway safety and parking as discussed below.

IMPACT ON CHARACTER

The character of the area is residential and is defined by detached properties of single and 2 storey

height set back a uniform distance from the site frontage.

Policy D DM1 of the Arun Local Plan (ALP) requires that the Council have regard to certain aspects including (1) Character - making 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, (2) Appearance/attractiveness by demonstrating a high standard of architectural principles, (13) Density ensuring new housing will make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness and (14) Scale requiring development to keep within the general confines of the overall character of a locality.

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.

The building is already in situ as it was previously granted permission as a single dwellinghouse subject to occupation restrictions. The scale, density and appearance of the dwelling would be unaltered. At the time of consideration of the original application the impact of the building on the street scene and wider area and any parking/highway implications would have been taken into account. 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. It is agreed that the bungalow does not have a detrimental impact on the streetscene.

The general character of development is broadly characterised by development that fronts the road (highway) on plots of similar size and shape and the position of the dwelling, plot size and shape are consistent with the general pattern of development within the area. Having an unrestricted unit of accommodation in this position would be in keeping with the character of the area. As such, the proposal would comply with Policy D DM1 of Arun Local Plan.

TOURISM

Policy TOU DM1 of the Arun Local Plan states that proposals relating to loss of tourism accommodation will not be granted planning permission for a change of use which leads to the loss of a visitor offer unless it is demonstrated that the use is no longer required and the site is unlikely to be reused for visitor purposes. To demonstrate this viability and suitability of alternative uses need to be explored.

The site belongs to a charity and the application has been submitted on the basis that demand for use of the property as a holiday home for disabled persons has reduced as alternatives such as hotels and caravan parks have become more accessible to wheelchair users and persons with reduced mobility. They wish to sell the property and use the proceeds to invest in other projects for the same group of beneficiaries i.e. disabled people.

As such, it is considered that the proposal would comply with Policy TOU DM1 of the Arun Local Plan. There is alternative holiday provision for the disabled available elsewhere and use of the dwelling as a permanent residence is entirely appropriate in this location.

RESIDENTIAL AMENITY

The removal of the planning obligation would mean that the building would become a detached residential dwelling for permanent unrestricted occupation, without any obligations in place tying it to disabled tourism. The building has 4 bedrooms. Also there is a rear garden amenity space provided, which is readily comparable in size with neighbouring properties.

No external changes to the building are proposed and the only impact on residential amenity would be the more intensive use of the site. The level of activity associated with a 4 bedroom dwelling would be

readily comparable with neighbouring dwellings and would not create any materially adverse impacts.

The dwelling would continue not to have a detrimental impact upon the occupiers of adjoining properties with regard to overbearing impact, overshadowing and loss of light/sunlight. The dwelling is single storey with no first floor windows.

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

DRAINAGE

The building has been used for residential purposes for a number of years as holiday accommodation, as granted and as there are no drainage issues and the proposal is compliant 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 building is a single storey 4 bedroom dwelling. Having regard to the Nationally Described Space Standards a 1 storey, 4 bedrooomed, 8 person dwelling is required to have 117m squared (internal) floor area. The total floor area of the dwelling is approximately 140sqm which is well in excess of the requirement.

There are no external space standards available to apply. However, the rear amenity garden is in excess of 10m in length and comparable with other dwellings in the locality 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 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 development should incorporate appropriate levels of parking in line with Arun Parking Standards taking into consideration the impact of development upon on-street parking.

Ancton Way is located on a private estate. There is currently one off-road parking space to the front of the dwelling and a side access driveway where additional parking for a further 2 cars is available. The number of bedrooms within the dwelling is not increasing and although if the occupation restriction is removed the frequency of use of the dwelling would increase the amount of parking generated is unlikely to alter significantly. According to Arun's parking standards the 4 bedroom dwelling requires 2 parking spaces and 1 cycle space. Both are accommodated at the premises. The need for installation of an electric vehicle charge point does not apply in this case as a new dwelling is not being created n the site. The removal of the planning obligation would not lead to any more parking issues than may already and the proposal would not have any further impact than has already been approved with regards to parking or highway safety.

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

SUMMARY

The unrestricted residential use of the property would not have a detrimental impact on the occupiers of adjoining properties, the streetscene or wider area. Therefore, the request to remove the planning

obligation previously applied to application ref: M/96/82 is entirely reasonable and the application is recommended for approval.

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