

Recommendation Report for Outline Consent

REF NO: R/117/20/OUT

LOCATION: Croft Works
52 Mill Lane
Rustington
BN16 3JN

PROPOSAL: Demolition of existing dilapidated storage buildings and erection of 4 no. semi detached 2-bedroom dwellings with associated gardens, car parking and landscaping. Outline application to consider matters of access, layout, scale and external appearance, with exception of landscaping which is to be a reserved matter.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The properties would be 1.5-2 storey, semi-detached dwellings with hipped and gable end roof form. Each property would have a private rear garden and there would be a communal parking for 8 cars. There would be a shared refuse and recycling store to serve all the dwellings and a collection day refuse and recycling point on the access road. The existing access track off Mill Lane would be utilised to serve the development.
SITE AREA	0.1 hectare.
RESIDENTIAL DEVELOPMENT DENSITY	40 dph.
TOPOGRAPHY	Predominantly flat.
TREES	A substantial mature Hornbeam tree in garden of the Windmill Public House.
BOUNDARY TREATMENT	Breeze block wall (1m raising to 2m high) to eastern boundary fronting onto Fircroft Crescent, to western boundary to nos.48, 50 Mill Lane and to southern boundary to no.21 Fircroft Crescent. 2m close board timber fence panels to northern boundary to no.29 Fircroft Crescent. 2m close board timber fencing along access road off Mill Lane to the west.
SITE CHARACTERISTICS	Plot of land in use for ad-hoc storage of waste/scrap. Garages, storage container and dilapidated single storey storage buildings on the site.
CHARACTER OF LOCALITY	Sub-urban. Residential streets on Mill Lane and Fircroft

Crescent.

Mill Lane consists of a mix of detached bungalows and two storey semi-detached dwellings.

Fircroft Crescent is characterised by detached bungalows with front gardens and driveways.

RELEVANT SITE HISTORY

R/203/71	5 Garages For The Garaging Of Vehicles Used In Connection With Business Premises & New Toilet To Replace Existing	ApproveConditionally 08-10-71
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REPRESENTATIONS

Rustington Parish Council

Objection:

- Increased number of vehicles using single narrow access road will affect the free flow of traffic at junction with Mill Lane.
- Would increase pressure on limited on-street parking.
- Detrimental impact on visual amenities and quiet enjoyment of surrounding neighbouring properties.
- Over-development of the site.
- Would be in direct conflict with Policy 2 of the RNP 'Road widths must demonstrate they are adequate for safe access by service and emergency vehicles.'
- Safety impact on cyclists on Cycle Route.

5 letters of objection have been received, summarised as follows:

- Potential loss of light and overlooking to living room and conservatory at no.29 Fircroft Crescent.
- Noise and disturbance from development.
- Over development.
- Access should be off Fircroft Crescent as access off Mill Lane is not wide enough for fire engines, removal vehicles, skips etc.
- Highways safety issues at junction of Mill Lane with New Road.
- Damage to Mill Lane, a private road, from lorries and heavy plant vehicles, the costs of which will have to be met by existing residents.

1 comment has been received, summarised as follows:

- No objection, providing the current walling to the south of the plot (adjacent to no.21 Fircroft Crescent) is left "as is" as quoted in the plans.

2 letters of support has been received, summarised as follows:

- Support this application, provided access for the development is via Mill Lane as proposed.
- Site will be improved by removal of dilapidated buildings/shed & increased security to the area.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and all material planning considerations made will be addressed in Conclusions section

of report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC WASTE AUTHORITY: LPA needs to consider if site makes an important contribution to the transfer of waste and if so the proposals will need to comply with policy W2 of the WSCC Waste Local Plan (2014).

ENVIRONMENTAL HEALTH: No objection subject to conditions.

WSCC HIGHWAYS: No objection subject to conditions. The proposals would not have a severe impact on highways safety or capacity and operation of the highways network.

DRAINAGE ENGINEER: No objection subject to conditions.

TREE OFFICER: Objection due to lack of supporting arboricultural information. A third party Category C tree in Windmill PH garden is likely to be affected by proposal. No arboricultural information has been submitted with the application. Arboricultural impact is potentially minor and affects only one Category C tree.

ECOLOGIST: Objection, based on lack of bat survey/s which is required prior to determination of the application.

LANDSCAPE OFFICER: No objection, subject to submission of a Landscape Scheme and a detailed Planting Plan to secure screening, ornamental and native improvements and demonstrate biodiversity net gain.

WSCC FIRE & RESCUE: The minimum widths for a Fire Service vehicle access are given in Building Regulations Approved Document B.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:

Built-Up Area Boundary

Rustington Neighbourhood Plan Area

CIL Zone 4

Locally Listed Buildings to south east

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy

ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
QEDM1	QE DM1 Noise Pollution
QEDM3	QE DM3 Air Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WSP1	W SP1 Water

[West Sussex Waste Local Plan 2014:](#)

West Sussex W2 Safeguarding Waste
Management Sites

[Rustington Neighbourhood Plan 2014 Policy 2](#)

Housing Design

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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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 relevant policies contained within the Rustington Neighbourhood Plan have been applied in 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 conflict with relevant Development Plan policies in that it would have an adverse impact on visual and residential amenity and fails to demonstrate that trees and ecology would be adequately protected.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan. Despite the Council's lack of a 5 year housing land supply and that the proposals would trigger the NPPF's 'presumption in favour of sustainable development', the adverse impacts on the visual and residential amenity of the area (and potential failure to protect trees and ecology) would significantly and demonstrably outweigh the benefits in this case, contrary to NPPF paragraph 11(d)(ii) and the relevant Development Plan policies.

CONCLUSIONS

This is an outline only application, with the Local Planning Authority being asked to assess the proposed access, layout, scale and appearance of the scheme only.

PRINCIPLE:

The site is in the Built-Up Area Boundary (BUAB), a location where the principle of development is acceptable subject to consideration against other policies in the Arun Local Plan (ALP).

The existing site is comprised of delapidated buildings and in use for ad-hoc storage of waste including scrap such as vehicles, sanitary ware, metal ware etc. When last visited the site appeared to be largely vacant and redundant with no activity taking place and nobody on site. If the site was in active existing use this would not have been the case in the afternoon of a working day. Given this and the fact that there is little waste on the site at present the policies of the West Sussex County Council's Waste and Minerals Plan are not considered to be relevant.

In the alternative if it was to be relevant to this Plan, Policy W2 of the WSCC Waste Local Plan (2014) seeks to protect existing waste management sites or infrastructure which make an important contribution to the transfer of waste in the District. This site in its present condition if used for ad-hoc storage of waste (refuse and recyclable materials) cannot be considered to make a meaningful contribution to waste facilities within the District and as such would not be subject to policy W2.

HOUSING SUPPLY AND PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT:

Given the Council's 5 year Housing Land Supply position (currently 2.9 years), the 'presumption in favour of sustainable development' is triggered under paragraph 11(d) of the National Planning Policy Framework (NPPF). For development proposals to be considered sustainable they have to satisfy the environmental, economic and social test as per para. 8 of the NPPF.

Para 11(d)(ii) of the NPPF makes clear that permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'. ALP Policy SD SP1 states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

In this case whilst the 4 dwellings would satisfy the economic and social test of sustainable development through the provision of much needed housing, jobs and council tax receipts, there would be significant adverse environmental effects as described in the sections below.

In the tilted balance therefore, the visual and residential amenity (and potential trees and ecological) adverse impacts of the scheme would significantly and demonstrably outweigh any benefits of the scheme, and the proposal would therefore not benefit from 'the presumption in favour of sustainable development'.

VISUAL AMENITY:

It is acknowledged that a residential use would be more compatible than the existing largely redundant storage/waste use in terms of the residential character of the immediate area. The site is very exposed and visible in views from Fircroft Crescent and therefore has the potential to significantly impact the character and appearance of the street scene.

The proposed building footprints, plot sizes and density of the new dwellings would largely reflect that of other semi-detached buildings in Mill Lane. The proposal being well set back from Mill Lane would not be prominently visible from this point. However, the 1.5 - 2 storey high new dwellings would not reflect the lower density, detached bungalows set on more spacious plots along Fircroft Crescent, from which the scheme would be highly visible.

The proposed design and materials of the new dwellings is considered to be attractive, with tile hung and patterned brickwork elevations, clay tile roof and timber detailing, albeit it would not be especially reflective of the post-war bungalows along Fircroft Crescent, but would be acceptable subject to details which could be secured at reserved matters stage.

The proposal would, therefore, fail to reflect and be in keeping with the character and appearance of the immediate area as perceivable from Fircroft Crescent in conflict with ALP policies D SP1 and D DM1, policy 2 of the Rustington Neighbourhood Plan (RNP) and the NPPF paras 124 & 125 which all seeks to secure good design in keeping with an areas character and appearance.

RESIDENTIAL AMENITY:

Given the scale and pitched roof form of the proposed new dwellings and their siting and separation distance to the nearest neighbouring properties it is concluded that the proposals would have an acceptable impact on outlook and light levels at surrounding properties. No. 21 Fircroft Crescent has no side facing windows (only a front door) to its northern side elevation. Whilst there may be some loss of light to the side elevation windows of 29 Fircroft, a bungalow, as a result of the new 1.5-2 storey dwellings, this would not be materially significant nor harmful enough to warrant a reason for refusal on these grounds.

The Proposed Block Plan shows that there would be a planting zone to the rear/side and front of the dwellings on the boundary with no. 21 and 29 Fircroft Crescent and the properties on Mill Lane. In any event, planning conditions could be used to secure a detailed Landscape Plan and appropriate boundary treatments (e.g. retention or installation of wall/timber fence with specified heights and planting) to ensure appropriate screening and no loss of privacy at ground floor level to nos. 21 and 29 Fircroft Crescent or the rear of properties on Mill Lane.

The side elevations of the new dwellings would face east-west toward the properties on Mill Lane (nos. 44/48 and 50 and nos. 16 and 18 Fircroft Crescent). Only Plot 4 would have a first floor side facing window which would look towards no.16 and 18 Fircroft Crescent and would serve a non-habitable room

(bathroom). It would be an acceptable separation distance away and could be conditioned and obscure glazed and fixed shut up to 1.7m in height to avoid any potential overlooking.

However, the proposals would result in harmful overlooking and a perception of overlooking to no. 29 Fircroft Avenue. At its closest point, the distance between the front of the new dwellings to the side elevation of no.29 would be 13.5m. This would fall short of the accepted typical separation distance of 14m back to side and 16m front to front as set out in the emerging Arun District Council (ADC) Design Guide.

Furthermore, the side elevation to no.29 contains habitable room windows (2 living room windows and a conservatory window). The first floor front windows to the new dwellings would therefore result in unacceptable overlooking and loss of privacy to these side facing habitable room windows to no.29.

It is necessary to consider potential noise and disturbance and air pollution impacts on neighbouring residents from use of the access road into the site as a result of the proposals. The proposals would utilise the existing access road to the site off Mill Lane. The access road is too narrow and not wide enough in parts to accommodate 2 vehicles passing each other, and as such there could be conflict between vehicles entering and exiting the site and vehicles having to wait with their engines running, and the potential noise and air pollution impacts this could entail.

However, as confirmed by County Highways, it is accepted that the proposed use would be unlikely to result in a material increase in vehicular trips or intensification of use of the access track in comparison to the existing use. In addition, over the course of the day, it is unlikely that this conflict between vehicles entering and exiting the site at the same time and waiting vehicles would be a regular occurrence. Also conditions could be used to erect robust fencing and planting to secure a suitably quiet environment. As such, it is concluded that the proposed use of the existing access road to serve the development would not result in significant and harmful noise and disturbance nor air pollution impacts to neighbouring residents.

The proposals, by reason of their siting and scale, would result in an unneighbourly relationship and overlooking and loss of privacy to neighbouring occupants of no. 29 Fircroft Crescent. The proposals would fail to protect residential amenity, in conflict with the NPPF, policies D DM1 and QE SP1 of the ALP, and the ADC emerging Design Guide.

QUALITY OF ACCOMMODATION:

The application proposes 4 x 2 storey 2 bed homes. Each of the dwellings would have a Gross Internal Area (GIA) of approximately 79sqm. This would meet the national internal space standards set out in 'Technical Housing Standards - Nationally Described Space Standards' which require a 2 storey 2B4P home to have a GIA of at least 79sqm. The proposals would provide internal space of an appropriate size, as required by policy D DM2 of the ALP. The proposed layouts show adequate storage and circulation space and bedroom widths to meet the national standards. In addition to its internal size, the accommodation appears to be well-laid out and would allow for natural light providing a good standard of accommodation for future occupants.

Each of the dwellings would have a front garden area between 1.5 - 2m deep and a private rear garden with a depth of approximately 10.5m. The emerging ADC Design Guide advises that new dwellings should have a front garden of 2m to provide a buffer strip of defensible space and a rear garden with a depth of at least 10.5m, and the proposals would broadly reflect this. The outdoor amenity spaces would be of an appropriate size and shape to be usable and enjoyable, in accordance with guidance in the emerging ADC design guide.

A shared refuse and recycling store to serve all the dwellings and a collection day refuse and recycling point has been shown on the Proposed Block Plan. This shows 2 bins per property which would meet the requirement for 1 x 240 L refuse and 1 x 240 L recycling bin per property. It also shows that kerbside collection from Mill Lane by municipal refuse vehicles would be possible. Details of the exact scale, design and materials for the bin storage could be secured by way of a planning condition. The proposals would provide adequate bin storage in accordance with ALP policy WM DM1.

HIGHWAYS:

The proposals would utilise the existing access off Mill Lane (a private road). The Local Highway Authority (LHA), County Highways, have been consulted on the application and raise no objection on grounds of impact on highways safety, parking or capacity and operation of the highways network. They confirm that, in principle, the existing storage use could generate vehicular trips of a similar quantity than that of the proposed 4 new dwellings. The LHA conclude that the proposals would not result in a material intensification of the use of the existing access track or access point onto the nearest publicly maintained highway, New Road. Police data shows there is no evidence to suggest the existing access is operating unsafely. The LHA conclude they would not anticipate that the proposal would generate a highways safety concern at the existing junction (between Mill Lane and New Road).

8 on-site car parking spaces are proposed to serve the 4 dwellings (2 spaces each). The Arun Parking Standards requires a minimum provision of 1 car parking space for each property of this size a total of 4 in this case. As such, the proposals would exceed the minimum car parking standards.

No cycle parking is shown on the Proposed Plans although reference is made in the Planning Statement for a shed in each garden which could store 2 bikes. The Arun Parking Standards requires a minimum provision of 1 cycle parking space for a 2 bed property. A planning condition could be added to secure details of undercover and secure cycle parking provision to serve the development.

The proposals, subject to conditions, would have an acceptable impact on highways safety, operation of the highways network and parking, in accordance with the NPPF, policies T SP1 and T DM1 of the ALP.

TREES:

There is one third-party tree within the pub garden of the Windmill Pub adjacent to the site which is of note and could be affected by the proposals. It is a mature Hornbeam (Category C) with a nominal root protection area extending several metres into the site and beneath concrete hardstanding/building foundation.

It is likely to need to be significantly pruned to facilitate demolition on site and provide reasonable clearance of any future garden/s to the new development. No arboricultural information has been submitted with the application to cater for the impact on this valuable tree.

Given that this is a mature 3rd party tree and there exists a risk of significant direct and indirect damage occurring it is concluded that appropriate protection measures should be secured. An Arboricultural Impact Assessment (AIA) which must be inclusive of; a 'Tree Survey Schedule', a 'Root Protection Area (RPA) Schedule' and a 'Tree Constraints Plan' would need to be submitted. In the event that a RPA of any tree which is proposed for retention overlaps the development then BS5837:2012 requires that the Detailed Planning Application is accompanied by an Arboricultural Method Statement (AMS) and also most importantly a Tree Protection Plan.

In the absence of any arboricultural information, the application currently fails to demonstrate that trees would be adequately protected, as required by ALP policy ENV DM4.

ECOLOGY:

The proposals would involve the demolition of existing storage building/s on the site. No ecological information has been submitted at this stage. Although it is at outline only stage, these matters need to be resolved prior to determination of an outline application to confirm if the principle of development is acceptable in ecology terms on this site and whether any appropriate mitigation measures have been secured.

The Council's Ecology Officer has raised an objection to the current application, based on the lack of ecology information. Due to the location of the site, the proposed works (which include demolition) and the records of bats within close proximity of the site there is a moderate likelihood of bats roosting within the building. Unfortunately no bat surveys have been undertaken on the site so the LPA is unable to establish if bats are present. Prior to determination of this application an initial bat survey is required to be undertaken on the building to determine if there is evidence of bats roosting within the building. If there is evidence of bats, further bat activity surveys would be required and mitigation strategies would need to be produced. These surveys plus mitigation strategies required would need to be submitted as part of the planning application prior to determination. Due to the level of protection bats hold within European legislation, if bats are found to be roosting on-site the application would also require a Natural England Protected Species License for the works.

The Council's Ecologist has also recommended planning conditions to secure details of any external lighting scheme to ensure the protection of bats from light pollution, a restriction on site works being undertaken outside the wild bird nesting season (of if within it the site is to be checked 24 hours beforehand by a qualified ecologist for nests), and for bird boxes to be installed on trees within the gardens to the new dwellings.

Due to the lack of bat survey/s, the proposals have failed to demonstrate that ecology and protected species would be adequately protected. The application thus fails to accord with policy ENV DM5 of the ALP.

SUMMARY:

The proposals relate to the provision of housing and, as such, due to the Council's current lack of a 5 year HLS, the NPPF's 'presumption in favour of sustainable development' would be engaged. However, any benefits of the proposals would not be outweighed by the significant and demonstrable harm to visual and residential amenity (and potential harm to trees and ecology) as a result of this 'backland' development. As such, the proposals would not benefit from the presumption in favour of sustainable development, and the conflict with policies within the Development Plan and the NPPF, warrants refusal of the application.

The application is refused for the following reasons:

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 development may be CIL liable, so please be aware of the CIL Regulations 2010 (as amended) and CIL Guidance. However, CIL liability will only be calculated subject to approval of the last reserved matters application/s.

RECOMMENDATION

REFUSE

- 1 The proposed new dwellings, by reason of their density, layout, absence of a street frontage, height and scale would fail to integrate successfully with their surroundings and would result in harm to the immediate street scene and the character and visual amenity of the area, in conflict with policies D SP1 and D DM1 of the Arun Local Plan and policy 2 of the Rustington Neighbourhood Plan.
- 2 The proposed new dwellings, by reason of their siting and height, would result in an unneighbourly relationship with unacceptable overlooking and loss of privacy to neighbouring occupants of no. 29 Fircroft Crescent in conflict with policies D DM1 and QE SP1 of the Arun Local Plan.
- 3 In the absence of any arboricultural information having been submitted, the application fails to demonstrate that trees would be adequately protected from the proposed development, as required by policy ENV DM4 of the Arun Local Plan.
- 4 Due to the lack of bat survey/s having been undertaken and submitted, the proposals have failed to demonstrate that ecology and protected species would be adequately protected from the proposed development in conflict with policy ENV DM5 of the Arun Local Plan.
- 5 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 identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.