

Recommendation Report for Planning Permission

REF NO: R/190/13/

LOCATION: Land to the rear of
20 and 22 Broadmark Lane
Rustington

PROPOSAL: 1 No three bedroom detached house

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposed dwelling measures 14.5 metres in width by 7.615 metres in depth and stand at 6.51 metre in height to the roof apex. Two car parking spaces would be provided to the front of the dwelling.
SITE AREA	Approximately 435 square metres.
RESIDENTIAL DEVELOPMENT DEN	Approximately 23 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	The site is overgrown and there are a number of small trees and shrubs present. None of these trees are considered to possess a level of amenity value that would justify the placement of a Tree Preservation Order. Two of the trees towards the northern edge of the site are to be retained.
BOUNDARY TREATMENT	Approximately 1.5 metre high stone wall along the site frontage (southern boundary). Eastern and northern boundaries are marked by approximately 1.8 metre high timber fencing. There is dense overgrowth around the western boudnary which is marked by 2 - 2.5 metre high hedging.
SITE CHARACTERISTICS	The site is currently overgrown and is not employed in any specific use. There is a concrete garage building positioned towards the front of the site, adjacent to the western boundary. The site has gated access and a hard surfaced crossover to the front.
CHARACTER OF LOCALITY	The site is located on a residential cul-de-sac that in flanked by a linear arrangment of residential dwellings of a mixture of designs and scales. There is a general uniformity in plot sizes with dwellings being set back from the road but benefitting from spacious rear gardens. The road is bordered grass verging which contributes towards an open and verdant character and appearance.

RELEVANT SITE HISTORY

R/48/10/

Removal of existing garage & erection of new
detached three bedroom dwelling

Refused
21-04-2010

REPRESENTATIONS

Representations received:

Rustington Parish Council

OBJECTION: Overdevelopment of the site by reason of size, mass and design. Backland development that will alter the character of the locality to the detriment of the amenities of the area. Would appear overbearing and have a detrimental effect on amenities of 20 and 22 Broadmark Lane and 4 Broadmark Way.

48 LETTERS OF OBJECTION (FROM 39 INDIVIDUAL ADDRESSES): Remains a cramped and contrived development which was the substantive reason for the refusal of R/48/10. Backland development. An example of 'garden grabbing.' Would result in overshadowing and a loss of privacy of occupiers of neighbouring dwellings. Will be built right to the boundary with No 4 Broadmark Way and will devalue the property. The garage which is to be removed has asbestos. Further pressure on infrastructure. Overbearing and intrusive. Building footprint is 60% larger than the dwelling refused under R/48/10). Too large for the plot and out of keeping with current residential properties. Further extensions and roof lights could be added at a later date. Too close to existing properties. Will affect rights to light. There is limited amenity space. The reduction of garden space to the rear of 20 Broadmark Lane has become an issue and the proposal will compound the problem. Parking is not sufficient for a new family dwelling as the current road has restricted parking at all times. Parking on street is prohibited on the grounds of safety and to prevent obstruction of access and emergency exit to nearby Leonard Cheshire home for the disabled. Fails to comply with Local Plan Policy GEN7 and paragraphs 58 and 64 of the NPPF. Would disrupt access and present a hazard. The bungalow on the opposite side of the road was built on the site of three gardens, the proposed plot is too small as it only occupies two. We need more trees and green spaces, site could possibly become a community garden or be bought by the Council. The abundance of wildlife on the site will be decimated. The vegetation on the site improves air quality and protects against flooding. Will set a precedent. Quite a few local people are unaware of this application. Applicant has no right of access over the verge. Broadmark Way is a private road and BWRA needs to approve any access. There are no boundary definitions on the plans. Applicant is getting support letters from people outside the area. The owner of 20 Broadmark Way was not made aware of the proposal until after they bought their property. In breach of covenants restricting building contained within deeds for 18, 20 and 22 Broadmark Lane.

4 LETTERS OF SUPPORT: Area is currently waste ground and not in keeping with the surrounding houses or area. Rustington requires further housing. Will be an attractive addition to the area. Other development in the surrounding area has been approved. Is far smaller than other new builds in the area. There is ample off road parking.

APPLICANT RESPONSE TO LETTERS OF OBJECTION: Proposed dwelling is to be constructed specifically to fit in with the surrounding homes, it is well designed and consistent with the building line. The proportion of the building footprint to the plot is less than 50%. Boundaries are completely compliant with regulations. Owners of 20 & 22 Broadmark Lane bought their properties with full knowledge that the land was planned to be developed. Windows have been designed to not cause overlooking. Official register of title for the plot

specifies use for a private dwelling and garage and has right of access from Broadmark Way. Current plan caters for up to three parking spaces. The proposed bungalow is south facing and lower than adjacent dwellings and this will limit overshadowing. There are plots of similar size nearby with larger dwellings on them such as 18a Broadmark Lane. There is a desperate need for housing in the surrounding area. The builder and family are hoping to live in the home. During construction, consideration will be given to neighbours, especially residents of the Leonard Cheshire Home. The site is a breeding ground for vermin and not in keeping with the rest of the road.

AGENT RESPONSE TO LETTERS OF OBJECTION: The property has been carefully designed to fit within the plot whilst maintaining an adequate amount of amenity space. Parking provision is entirely adequate for a house of this size. Existing access will be utilised. There is no coherent or consistent design pattern of properties within the street. The proposal would fit in with the street scene and would have a lower ridge and eaves height than adjacent properties. It would not dominate the street scene. There are no windows on side elevations and no first floor windows on the rear elevation, it is not accepted that there would be any loss of privacy to adjacent properties. No overshadowing impact due to height of the dwelling. This plot was intended to be developed as part of the original layout of Broadmark Way as the street numbering currently commences at No. 4. The fact that the plot does not benefit from the depth that other properties in Broadmark Way enjoy is of no real relevance. Accept that the footprint is larger than the previous scheme but the plot is also larger and the height has been reduced. Drawings clearly show that the proposed dwelling is a chalet bungalow. The applicants fully intend to use the property as their family home.

Comments on Representations received:

RESPONSE TO LETTERS OF OBJECTION: It is agreed that the plot size is too small when seen in the context of the general spatial pattern of development Broadmark Way. An assessment of potential impacts upon the amenities of neighbouring residents will be set out in the conclusions of this report. Devaluation of property is not a planning matter. Removal of asbestos in buildings is strictly regulated so as to prevent health risk. Permitted Development Rights pertaining to further extension of the building can be retracted by the Local Planning Authority through the use of planning conditions. The site provides for two off street parking spaces which is a sufficient amount for a three bedroom dwelling. There is no evidence of any protected species of wildlife on site. Site notices publicising the application have been clearly displayed on Broadmark Way, Broadmark Lane and Knightscoft Avenue and the application has also been advertised in the West Sussex Gazette. Access rights and compliance with covenants are legal rather than planning matters and, therefore, subject to separate legislation and not applicable when determining this application. Site boundaries are clearly defined on accompanying plans.

RESPONSE TO LETTERS OF SUPPORT: The fact that the condition of the site has been allowed to deteriorate is not an acceptable reason, on its own, for allowing development of the site. Whilst other development has been allowed within the surrounding area there has been no recent development on Broadmark Way and every application for new housing is judged on its own merits. It is agreed that parking is sufficient.

RESPONSE TO LETTER FROM APPLICANT: It is acknowledged that the proposed dwelling would be built in line with other properties on Broadmark Way. The application will be judged on its own merits and any development within the surrounding area sets no precedents. 18A Broadmark Lane is located on a different road which does not possess the same characteristics as Broadmark Way. The accompanying application states that off street parking provision will be for two vehicles not three, although this amount is considered to be

sufficient in any case. The relative height of the dwelling in relation to neighbouring properties has been noted.

RESPONSE TO LETTER FROM AGENT: It is agreed that parking provision is accurate and that acceptable steps have been taken to safeguard against overlooking, overbearing or overshadowing impacts upon adjacent properties. Although the plot may have been identified for development at some point this in itself is not a valid reason for granting planning permission. No applications for the development of the site have been approved and planning legislation has changed significantly since the time of the original development of Broadmark Way. The depth of the plot is relevant in the determination of this application as uniformity in plot size is an important spatial characteristic of Broadmark Way. The fact that the proposed dwelling can be described as a chalet bungalow is not refuted.

CONSULTATIONS

Engineering Services Manager
WSCC Strategic Planning

Consultations responses received:

COUNTY HIGHWAYS: In regards of highway matters, it would be confirmed that the comments and conditions previously issued would still remain applicable. Certain things have changed, such as the introduction of Manual for Streets 2 and the Parking Demand Calculator, but given the history it would be satisfactory to continue with that which has already been agreed. The previously recommended conditions should be applied to the latest application.

Comments on Consultation responses:

Noted. The previous advice referred to was provided for R/48/10. The contents were as follows:-

The proposal will access Broadmark Way a private road not maintained at public expense, it is proposed that a new access will serve the new dwelling. For the purposes of this application a 3 metre wide access is considered sufficient for the needs of this proposal. I would advise that the applicant gains permission of the proprietor of Broadmark Way to construct the new access. I would also advise that the driveway area and car parking spaces are constructed in a bound material and that suitable drainage methods are installed to prevent private surface running onto the Broadmark Way.

In terms of parking I can confirm that the proposed level of parking does not exceed the WSCC maximum parking standard. In terms of parking layout, an adequate area of hardstanding is shown to permit turning within the site. I would also recommend that cycle parking in line with the WSCC minimum standards is also secured via condition. This facility should be covered and securable, details should be submitted to the LPA for approval.

It is unlikely that the creation of a further dwelling would result in any great intensification in traffic movements; there should not therefore be any impact upon highway safety. If the LPA are minded to approve this application, a condition securing cycle parking and provision of the new access should be included.

INFORMATIVE: The applicant is advised to contact the proprietor of Broadmark Way to obtain formal approval to carry out the site access works on the highway.

Conditions and informatives recommended within this response will be attached to any approval given.

POLICY CONTEXT

Within Built-Up Area

DEVELOPMENT PLAN POLICIES

Arun District Local Plan: [GEN2](#) Built-up Area Boundary
[GEN7](#) The Form of New Development

PLANNING POLICY GUIDANCE

NPPF National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

RDS Rustington Design statement by Rustington Parish Council

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to:

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process

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 its plot size is smaller than those of all other dwellings on Broadmark Way, meaning that the proposal would

disrupt the spatial dynamics of the surrounding area. In addition, the proposed dwelling would erode a visual gap maintained between buildings on Broadmark Way and those on Broadmark Lane and would therefore compromise the open and spacious characteristics 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

The proposal follows a previous application for the development of the site in the form of the construction of a two-storey detached dwelling that was refused on the grounds of the plot size being insufficient, the development appearing out of keeping due to projection forward of frontages of neighbouring dwellings and the un-neighbourly impact the development would have had upon occupants of neighbouring properties to the north and east as a result of direct overlooking.

The current application represents an attempt to overcome the objections raised towards the previous scheme and a number of changes have been incorporated including the enlargement of the plot, the recessing of the dwelling frontage and the change in design from a two-storey dwelling to a chalet style structure.

It is considered that the proposed scheme is an improvement of R/48/10 in that the frontage of the proposed dwelling is now in line with those of other dwellings on Broadmark Way, ensuring that it would appear less disruptive within the street scene. The reduction in the height of the proposed dwelling would also lessen its impact upon neighbouring properties whilst the use of ground floor windows only on all elevation other than the frontage is considered to successfully address concerns raised in relation to potential overlooking.

However, whilst the plot size has been increased, it remains smaller than all others on Broadmark Way and the proposed dwelling will therefore appear cramped, incongruous and contrived when seen in the context of its surroundings as it fails to respect the uniform spatial arrangement of Broadmark Way where all plots are of similar size and benefit from large rear gardens. The amount of amenity space provided to the rear of the dwelling is limited as a consequence of moving the dwelling in line with neighbouring properties and it is considered that the space provided is insufficient for a three bedroom dwelling. It is also considered that the dwelling would close off an important visual gap maintained between dwellings on Broadmark Way and those on Broadmark Lane which provides a buffer between buildings that plays an important role in generating the open and spacious character and appearance which is a prevalent and important feature within the surrounding area.

It is therefore recommended that 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 for private and family life) and 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 it has been determined that its refusal would not result in any negative impact 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

REFUSE

- 1 The site by virtue of its limited depth would appear cramped and contrived when seen in context with the uniform plot sizes of properties on Broadmark Way and is not capable of accommodating the proposed dwelling and providing a satisfactory level of amenity space to the rear. The proposed development would therefore be out of keeping with the spatial arrangement of Broadmark Way and this would result in an adverse impact upon the character and appearance of the surrounding area. The proposed development would thereby be contrary to policy GEN7 (ii) of the Arun District Local Plan and the National Planning Policy Framework.
- 2 The proposed dwelling would obstruct an important visual gap between buildings on Broadmark Way and those on Broadmark Lane and would therefore compromise the open and spacious characteristic of the surrounding area, in conflict with Arun District Local Plan Policy GEN7(ii) and the National Planning Policy Framework.