

Recommendation Report for Planning Permission

REF NO: R/62/26/PL

LOCATION: Croft Works
52 Mill Lane
Rustington
BN16 3JN

PROPOSAL: Demolition of existing commercial buildings, erection of 3 No 2 bed detached bungalows with integral garaging and creation of 3 individual vehicular crossovers onto Fircroft Crescent. This application is in CIL Zone 4 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks planning permission for the demolition of commercial buildings, erection of 3 No. 2 bed detached bungalows with integral garaging and creation of 3 individual vehicular crossovers onto Fircroft Crescent.
SITE AREA	1300sqm.
SITE CHARACTERISTICS	The site is accessed from Mill Lane, and is an area of land formerly in commercial use. The site comprises an area of hardstanding with various garages and single storey storage buildings which are in disrepair.
CHARACTER OF LOCALITY	The site is in a predominantly residential area. A variety of dwelling types are present on Mill Lane, whilst Fircroft Crescent is characterised by bungalows with open front gardens.

RELEVANT SITE HISTORY

R/197/20/OUT	Outline application with some matters reserved for the demolition of existing dilapidated storage buildings & erection of 2 No. detached 3-bedroom chalet bungalows with associated car barns, gardens, car parking & landscaping (resubmission following R/117/20/OUT).	Refused 04-02-21 Appeal: Allowed+Conditions 04-10-21
R/117/20/OUT	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.	Refused 21-08-20 Appeal: Dismissed

REPORT_1011(ODB)

Planning history noted.

REPRESENTATIONS

Rustington Parish Council - No objection.

One representation was received from nearby occupiers, who raised concerns that the plans submitted do not accurately reflect the boundary between their land and the site. The layout would be different than shown on the proposed plans, taking account of the land which would be available to the applicant for development and would result in a reduced separation distance between properties.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The comment received from the neighbouring occupier did not include details of the disputed area, and it is not possible to provide detailed comment on this matter. As a general principle, it is the applicant's responsibility to provide plans which accurately reflect the proposed development and serve notice on any relevant land owners. If it later transpires that it is not possible to carry out the development in accordance with the submitted plans, the applicant may need either to reapply for planning permission, or apply to amend their existing permission. The amendments would then be assessed by officers.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

SOUTHERN WATER

- There are sewer assets crossing/in the vicinity of the site, the exact position of which must be determined on site by the applicant in consultation with Southern Water before the layout of the development is finalised.
- The 100 mm diameter gravity sewer requires a clearance of 3m on either side to protect it from construction works and to allow for future maintenance access. No development or tree planting should be carried out within 3m of the external edge of the public gravity sewer without consent from Southern Water.
- Condition requested requiring the developer to agree the measures to be taken to protect the public sewers with Southern Water, prior to commencement of the development.

ADC DRAINAGE ENGINEERS - Objection

- Engineers reviewed the initial submission and subsequent additional information.
- The both sets of submitted infiltration testing have not been carried out in accordance with ADC Ground Investigation Checklist requirements and may not reflect the slowest rate of infiltration. Both sets of testing are at a different base level to the design.
- Ground investigations are insufficient, and the evidence base does not fully demonstrate that the runoff destination is feasible. The proposal does not accord with Standard 1 of the National Standards for SUDS, as it has not been confirmed that infiltration is viable.
- The design includes infiltration from the base, in conflict with the BRE method and does not include an increased factor of safety.
- Errors and omissions within the calculations including use of incorrect CV values mean that the design is not in accordance with Standard 3 of the NSfS, which seeks to ensure that surface water is adequately managed during extreme rainfall.

WEST SUSSEX COUNTY COUNCIL HIGHWAYS - No objection.

ECOLOGY OFFICER - No objection.

- Application proposes a 22.9% gain in on-site biodiversity.

- Conditions recommended to secure Biodiversity Net Gain and biodiversity enhancement measures.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

Groundwater Flooding (>75%)

DEVELOPMENT PLAN POLICIES

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

SDSP2	SD SP2 Built-up Area Boundary
EMPDM1	EMP DM1 Employment Land: Development Management
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems
ENVDM5	ENV DM5 Development and biodiversity
ECCSP2	ECC SP2 Energy and climate change mitigation

[Rustington Neighbourhood Plan 2014 Policy 2](#) Housing Design

Rustington Neighbourhood Plan 2014 Policy 4 Sustainable Drainage

Rustington Neighbourhood Plan 2014 Policy 6 Local Employment

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

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

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 considered to conflict with relevant Development Plan policies in that the proposal fails to provide sufficient evidence that the site will be sustainably drained, and therefore fails to provide SUDS in conflict with Arun Local Plan policy W DM3.

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.

BIODIVERSITY NET GAIN

This application is liable for Biodiversity Net Gain (BNG). The Small Sites Metric provided shows a 22.9% increase in on-site biodiversity, which would be provided through planting of trees and shrubs and provision of bird boxes and hedgehog houses.

CONCLUSIONS

PRINCIPLE

The proposal is for the construction of three bungalows on a site which is occupied by disused commercial buildings. The site is within the built up area boundary, and the principle of residential development in this location is acceptable in accordance with Arun Local Plan (ALP) policy SD SP2. The proposals are acceptable subject to compliance with the relevant development plan policies.

Rustington has a made neighbourhood plan (RNP), and policy 2 (housing design), policy 4 (sustainable drainage) and policy 6 (local employment) are relevant to this proposal.

LOSS OF EMPLOYMENT LAND

The site is identified in the Design and Access Statement as a commercial site, and at the time of the previous application on the site in 2020, it is noted that the site was in use to some extent for the storage of waste. At this time, policies relating either to waste or employment sites were not considered relevant to the proposals. It is clear that the site has been unused or underused for some time, and its situation in close proximity of residential dwellings may prevent its use for some commercial purposes. Given that permission for residential development of the site has already been granted by the Planning Inspectorate, it is not considered there is any conflict with ALP policies EMP DM1, which resists applications which result in the loss of employment space.

CHARACTER AND DESIGN

ALP policies D SP1 and D DM1 state that 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 Arun Design Guide (ADG), particularly Part P is relevant to the proposals, as the proposal relates to the development of a gap site within an existing residential area.

The arrangement of dwellings with principal elevations facing Fircroft Crescent and vehicular access onto this road is logical, given the location of the site, and is in accordance with the ADG which states that proposals should maintain the existing building line and respond to existing buildings. The previous permission for residential development on the site proposed two dwellings, where the current application proposes three. The dwellings are smaller and have narrower gaps between them.

The frontages of the dwellings would measure approx.10m, and are in keeping with others on the street. Whilst the properties would have relatively narrow gaps between them, this reflects the spacing between existing bungalows in this location.

The dwellings are bungalows, reflecting the single storey design of other dwellings on the street in accordance with RNP policy 2, ALP policy D DM1 and the ADG. A variety of materials are proposed for each dwelling. Plot 1 would be brick with flintwork to the front elevation, Plot 2 brick with contrasting brick quoins, and Plot 3 would be render and brick. The properties feature tile hanging on the front gable end and grey concrete tiles on the roof. The proposed materials reflect those already present on the street, and the variation of materials between the three dwellings reflects the variety of materials and designs of other dwellings on the street. The design of the properties would have a positive impact on the street scene, and accords with ALP policies D SP1 and D DM1, RNP policy 2 and the ADG.

AMENITY OF FUTURE OCCUPIERS

The proposed dwellings have an internal area of 99.6sqm, which exceeds the Nationally Described Standards for a dwelling of this type. Each dwellings has private outdoor amenity space to the rear, which has a depth of between 8.8m and 9.7m. This falls short of the 10.5m recommended by the ADG, however, the proposals provide sufficient outdoor amenity space for dwellings of this size, and the garden depths reflect those of other bungalows on the street. The proposals provide sufficient internal and external amenity space for future occupiers, in accordance with ALP policy D DM2 and the ADG.

The dwellings would be single storey, and have relatively narrow distances between the side elevation and boundary treatments. As a result, the windows serving bedroom 2 and the dining room on north elevation may receive limited daylight. However, given that the roof of the neighbouring property would be pitched away from the neighbouring dwelling, the lack of daylight is unlikely to be so severe as to warrant refusal of planning permission. This arrangement of windows and boundary treatments are common feature of bungalows, both in the locality and more generally.

The dwellings would provide an acceptable standard of amenity for future occupiers in accordance with ALP policies D DM1 and D DM2 and the ADG.

NEIGHBOURING RESIDENTIAL AMENITY

The site has neighbours to either side and to the rear on Mill Lane. The dwellings would be within close proximity of neighbouring properties on Fircroft Avenue. The southernmost dwelling would be located 2.2m from the adjacent dwelling, and would be positioned directly adjacent to the neighbouring property, and would not project either forwards or backwards of this property. The part of the neighbouring dwelling closest to the development is an attached garage, and the proposed development would not harm the residential amenity of this neighbour.

The northernmost property would be 1.9m from the neighbouring property, and would project approx.

6.4m beyond this property to the rear. However, the dwelling would be single storey and there is an existing structure which occupies some of the area which would be occupied by the proposed dwelling. Whilst there may be some level of increased overbearing, the proposed dwelling does not replace an open area, and any impact would not be significantly greater than that of the existing fence and building.

The properties would be between 9.7m and 8.8m from the rear boundaries of properties on Mill Lane, and the rear boundaries of the rear gardens of the properties would be adjacent to the rear boundary fences. The properties along Mill Lane have deep rear gardens, and the back to back distances of the properties would remain in accordance with the ADG. The dwellings are single storey, and would not result in overlooking of the rear gardens of properties on Mill Lane.

The dwellings would not result in demonstrably harmful impacts on the amenity of neighbouring occupiers by way of overbearing, overshadowing or overlooking, and the proposals are in accordance with ALP policy D DM1 and the ADG.

DRAINAGE

The proposals will affect drainage on and around the site, and therefore the development must be sustainably drained in accordance with NPPF paragraph 182. ALP policy W DM3 states that proposals for minor and major development must incorporate SUDS.

The Council's Drainage Engineers objected following the initial submission. Additional and amended information was received during the application which included a rebuttal statement addressing the initial objection, additional infiltration test results and a Technical Note regarding the Factor of Safety. ADC Drainage Engineers reviewed this material in detail, and maintain their objection.

ADC Drainage Engineers raised several issues with the ground investigations which have been submitted with the proposals, including the groundwater monitoring and infiltration testing. The information regarding the groundwater monitoring is incomplete and the measurements are taken once per month, which does not accord with ADC ground investigation requirements, although the results appear to documentation that groundwater levels are comfortably below to 1m buffer from the base of the soakaway.

With regard to the infiltration testing submitted with the initial application, three fills were recorded but were undertaken over a six day period and do not achieve saturated conditions. The LMA rebuttal note seeks to assert that there is no detriment to the infiltration testing by leaving one or two days between fills and that if anything this makes the results conservative. This is a misunderstanding of the engineering principles which support the reason for 'filling the soakage trial pit several times in quick succession' (BRE365). The saturated conditions are achieved by the second and third tests following on straight away from the first fill. The longer the time between the fills, the more the ground will become unsaturated and the better and therefore less conservative the worst case infiltration rate will be.

Additional infiltration test results dated February 2024 were submitted following the initial objection, and appears to be undertaken on three consecutive days. However, the testing does not meet the ADC Ground Investigation Criteria. There are no calculations for infiltration rates for each test, and these may be worse than the testing previously presented.

Both sets of testing are at a different base level to the design and possibly with a base within a different stratum. Ground conditions at the site may include made ground which increases infiltration at shallower depths beyond the natural subsoil and may inflate infiltration testing results. The base level of the tests must be at a similar level to the design to ensure that the results are applicable to the design proposed. There is no testing at shallow depth for the infiltration from the permeable driveway design.

Where the evidence base for designs and assessments is not compliant with guidance a robust precautionary approach must be followed which for this design may require an additional factor of safety beyond the recommendations within Ciria 156 and the NSfS. This has not been addressed. The current evidence base does not fully demonstrate that the runoff destination is feasible, and the design is not currently in accordance with the requirements of the NSfS (Standard 1).

The drainage design includes infiltration from the base of the soakaway, which is excluded in the BRE method and would require an increased factor of safety in accordance with guidance within Ciria 156 and the NSfS is required. This has not been incorporated. Infiltration should be applied to the sides of soakaways and the base of permeable paving.

There are further outstanding issues with the calculations submitted, including the use of the correct CV value. As a result, the submission does not demonstrate that the proposed design could manage surface water runoff during extreme rainfall and flooding, in conflict with Standard 3 of the NSfS.

The applicant has drawn attention to Paragraph 182 of the NPPF, where it states that the incorporation of SUDS should be proportionate to the scale and nature of the proposal. The proposal is for three residential dwellings and, as a non-major application, should incorporate SUDS in accordance with ALP policy W DM3 and the NPPF. Sufficient and robust ground investigations are a foundational step in achieving SUDS, and must be submitted with any drainage proposal which seeks to propose or rule out infiltration. Addressing outstanding issues with the evidence base, calculations and design of the drainage system may result in alterations to the scale and layout of the development. For this reason, attaching a condition at this stage is not considered appropriate. ADC's engineers' comments highlight that imposition of conditions may result in a circumstance where the condition cannot be discharged.

The drainage design and evidence base do not comply with NSfS, and the application fails to incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, in conflict with paragraphs 181(e) and 182 of the NPPF and ALP policy W DM3.

The comments of Southern Water regarding existing sewers on the site are noted, and the conditions requested would have been attached to any approval.

TRANSPORT AND PARKING

The site is within an existing residential area, and is within close proximity of local services. The dwellings would be sustainably located in accordance with ALP policy T SP1. WSCC Highways were consulted on the proposals and raised no objection in respect of highways safety.

Each dwelling has an integrated garage, with a driveway to the front. The proposed garages do not meet the minimum internal specifications set out in the Manual for Streets, and may be too small to accommodate all modern cars. However, the proposed driveways are long enough to accommodate two cars. The proposals therefore provide sufficient parking in accordance with the Arun Parking Standards SPD.

The Arun Parking Standards also require dwellings of this size to provide a minimum of 2 cycle spaces to encourage sustainable travel in accordance with ALP policy T SP1. This may be secured via condition.

The proposals are in accordance with ALP policy T SP1.

ECOLOGY

The proposed development is required to provide statutory biodiversity net gain, and is also required to propose biodiversity enhancement measures by ALP policy ENV DM5. The Small Site Metric submitted shows an increase in habitat units of 22.9%, which exceeds the mandatory 10%. Biodiversity

enhancement measures which accord with ALP ENV DM5 have also been specified. Conditions to secure the BNG and enhancements measures would have been attached to any approval.

The application complies with the requirements of statutory BNG and ALP policy ENV DM5.

SUMMARY

The application proposes residential accommodation on a previously developed site within the Built Up Area Boundary, and the principle of the development is acceptable. The design, scale and layout of the proposals are considered acceptable. However, the proposal fails to demonstrate that the site will be sustainably drained, and that surface water run off from the development will be adequately managed. In this respect the proposal conflicts with ALP policy W DM3 and paragraphs 181 and 182 of the NPPF.

The proposal delivers moderate benefits, in terms of the provision of 3 units of housing on previously developed land (which benefits from substantial weight under NPPF para 125 c) , resulting in a positive impact on the visual amenity of the area, and an overprovision of on-site BNG.

However, given that it has not been proven that surface water from the site will be adequately managed, the conflict with sustainable drainage policies and the NPPF would significantly and demonstrably outweigh the benefits in accordance with 11 d) of the NPPF. The application is recommended for refusal.

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

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 is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 The application has not satisfactorily demonstrated that the surface water run off from the site will be adequately managed. It has not been demonstrated that the risk of flooding would not increase on site or elsewhere. The proposed drainage design conflicts with National Standards for SUDS, and fails to provide SUDS in conflict with Arun Local Plan policy W DM3 and NPPF paragraphs 181 and 182.
- 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. 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.