

Recommendation Report for Outline Consent

REF NO: R/88/17/OUT

LOCATION: 40 Bushby Avenue
Rustington

PROPOSAL: Outline application with all matters reserved for 1 No. dwelling & detached garage

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks outline permission with all matters reserved for the construction of 1 no. dwelling on land to the rear of 40 Bushby Avenue.

SITE AREA

Approximately 0.07 hectares.

RESIDENTIAL DEVELOPMENT DENSITY

Approximately 14 dwellings per hectare.

TOPOGRAPHY

Predominantly flat.

TREES

The site features a number of trees and is the subject of a TPO. As this is an outline application it is unclear if the proposal would require the felling of protected trees.

BOUNDARY TREATMENT

The boundaries of the site consist of a mixture of mature planting, close boarded fencing and hedging.

SITE CHARACTERISTICS

The site is currently undeveloped garden land associated with 40 Bushby Avenue.

CHARACTER OF LOCALITY

The character of the locality is predominantly residential with a hospital located to the west of the application site. The application site is accessed via Bushby Avenue which is situated on the Sea Estate in Rustington. The residential development situated to the south of Bushby Avenue is characterised by large dwellings set in reasonably large plots.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

Rustington Parish Council

My Council has considered this application and wishes to object to it on the following

report

grounds:-

(i) The proposal, by reason of its size, mass and design, would not permit development of a standard compatible with the existing development in the area and, in consequence, would most certainly represent an over-development of the site

(ii) This type of backland/in-fill development would, if approved, make it increasingly more difficult for the local Planning Authority to resist similar proposals in the vicinity, the cumulative effect of which would be to alter the character of the locality to the serious detriment of the amenities of the area

(iii) The proposal would present an over-bearing appearance, which would have a detrimental effect on the visual amenities and quiet enjoyment of the neighbouring properties, namely Nos. 44, 46, 48, 50 and 52 Sea Avenue.

31 letters of objection:

- Proposed development is not in keeping with the area and would set a precedent for similar development.
- The proposal would have an adverse impact upon the residential amenity of neighbours.
- Proposal would lead to greater flood risk.
- Proposal would adversely impact upon biodiversity
- Proposal would constitute overdevelopment of the site.
- Proposal has poor access.
- Proposal would generate more traffic.
- Drainage would need to go along the proposed driveway.

Comments on Representations received:

Comments from the Parish Council are noted and will be considered further in the conclusion to this report.

The 31 letters of representation are noted and these matters will be considered in the conclusion to this report.

CONSULTATIONS

WSSC Strategic Planning
Engineering Services Manager
Engineers (Drainage)

Consultations responses received:

West Sussex County Council:

Access is to be obtained via the existing arrangement onto Bushby Avenue, and turning is to be provided within the confine of the site to enable a vehicle to enter and leave in forward gear. An operating width in excess of 3.7m is provided for in front of the dwelling to enable a fire appliance to operate at the site in the event of an emergency, with an access drive width in excess of 2.7m allowing the appliance to access the site.

No objection is raised.

Drainage (Engineers):

No comments to make on surface water drainage, as it is a single property and outside the Lidsey sewage treatment catchment. Drainage details will therefore need to be agreed with Building Control when the time comes.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Within built area boundary
TPO

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: GEN2
GEN7
GEN9

Built-up Area Boundary
The Form of New Development
Foul and Surface Water Drainage

Publication Version of the Local
Plan (October 2014):

D DM1 Aspects of Form and Design
Quality
D DM2 Internal Space Standards
D DM3 External Space Standards
D SP1 Design
SD SP2 Built-Up Area Boundary

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account.

Arun District Council's Development Plans:

Paragraph 215 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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from

the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

The Rustington Neighbourhood Plan has been made and policy 2 is considered relevant 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 not considered to comply with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining properties and have an adverse impact upon the established character 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

PRINCIPLE

The application site is situated within the built up area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policies in the determination of this application are considered to be GEN7 of the Arun District Local Plan; Policy 2 of the Rustington Neighbourhood Plan; and the National Planning Policy Framework.

DESIGN AND VISUAL AMENITY

The application is outline with all matters reserved and as such few details have been provided in relation to the proposed design of the dwelling. An indicative site plan has been provided showing a dwelling with an area of approximately 62m² with a garage located to the east of the proposed dwelling.

No details have been provided for the design or appearance of the proposed dwelling with all matters being reserved.

The proposed plot will measure approximately 22m in depth (north to south) and approximately 20m in width (east to west). The site is located to the rear of 40 Bushby Avenue and it is presumed that the site will be accessed via a new driveway located to the east of the existing dwelling.

Access is a reserved matters and as such no details have been provided to confirm how the site will be accessed. However, given that the red edge extends up to Bushby Avenue running down the eastern boundary of the existing plot it is presumed that this is the proposed means of access for the site.

The proposed site by virtue of its location is considered to be out of keeping with the existing spatial pattern and character of the locality. Development within the Sea Estate is linear in fashion with dwellings set back from the highway within spacious plots. The proposed site to the rear of 40 Bushby Avenue is fundamentally different to this and would be a relative small plot and development in comparison to locality as a whole.

Therefore, it is considered that the proposed development would conflict with policy GEN7(ii) of the Arun District Local Plan.

RESIDENTIAL AMENITY

In the absence of full details regarding the proposal it is difficult to assess the impact of the proposal upon the amenity of neighbouring properties. It is considered that the proposal by virtue of its location and distance to neighbouring properties is unlikely to result in any unacceptably adverse overbearing or overshadowing impacts on neighbouring properties. Similarly, the northern elevation of the proposed dwelling would be situated approximately 27m from the rear elevation of 40 Bushby Avenue - therefore, it is unlikely that the proposed development would result in any unacceptably adverse overlooking.

However, it must be considered that this would be a matter for consideration at reserved matters stage once full details of the design have been submitted.

The impact of the proposed development upon the residential amenity of the existing property at 40 Bushby Avenue is a consideration given that the proposed access to the site will run immediately adjacent to the east of the existing property. Full details of the proposed alterations to the eastern elevation at ground floor level of 40 Bushby Avenue have not been provided beyond the removal of the existing porch on this elevation. A number of windows existing at ground floor level on this eastern elevation and as such it is considered that the proposed access by virtue of its location will have a detrimental impact upon the residential amenity of the existing property contrary to policy GEN7(iv) of the Arun District Local Plan.

SUMMARY

The proposed development is considered to conflict with relevant development plan policies and as such is recommended for refusal 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 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 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

REFUSE

- 1 The proposed development constitutes over development of the site out of character with the area contrary to policy GEN7 of the Arun District Local Plan, D DM1 of the emerging Arun Local Plan, Policy 2 of the Rustington Neighbourhood Plan and the National Planning Policy Framework.

- 2 The proposed access by virtue of its location will have an unacceptable impact upon the residential amenity of existing and future occupiers of 40 Bushby Avenue in conflict with policy GEN7 of the Arun District Local Plan, Policy 2 of the Rustington Neighbourhood Plan and the National Planning Policy Framework.
- 3 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 determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.