

Recommendation Report for Planning Permission

REF NO: WA/27/15/PL

LOCATION: Deans Yard
Orchard Way
Walberton

PROPOSAL: Demolition of existing garages & erection of 2No. chalet dwellings

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The proposal relates to the provision of two 2 bedroom detached chalet style dwellings. They would have a ridge height of 7m, a width of 10.2m and a depth of 9.5m. The gable wall height is 4.5m. The dwellings would have integral garages.

SITE AREA

Approximately 780 square metres

RESIDENTIAL DEVELOPMENT DENSITY (NET) 26 dwellings per hectare

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Dense hedging along the majority of the western boundary at approximately 2m in height. Brick walling at approximately 2m in height along the eastern boundary and extending to the south. The walls of the commercial units currently on site form the remainder of the eastern boundary

SITE CHARACTERISTICS

The site comprises a commercial use with 6 no. units in a line along the eastern boundary. The units are flat roofed and single storey. The site is serviced by its own access road leading from Orchard Way and there is a yard/parking area to the front of the units.

CHARACTER OF LOCALITY

Predominantly residential in character, there are mainly two storey detached properties, bungalows and chalet style bungalows in the area.

RELEVANT SITE HISTORY

WA/57/87

Change of use from storage buildings for builders yard to light industrial units and

ApproveConditionally

storage

01-02-1989

WA/39/10/	Outline Application with some matters reserved for redevelopment to provide four new houses.	Refused 14-07-2010
WA/78/10/	Outline application with some matters reserved for redevelopment to provide a detached bungalow.	ApproveConditionally 10-11-2010
WA/52/13/	Demolition of garages/workshops and provision of 3No. three bed houses, associated parking and landscaping.	Refused 07-05-2014 <i>Appealed</i> Appeal: Dismissed 24 03 2015
WA/48/14/PL	Demolition of existing commercial buildings/garages and erection of 3 No 2 bed terraced dwellings along with provision of ancillary parking, turning and landscaping (re-submission of application WA/52/13).	Refused 11-11-2014

REPRESENTATIONS

Representations received:

Walberton Parish Council

No objection

One letter of objection - Lack of car parking, cramped development if more than one dwelling, too close to adjoining properties, increased traffic in Orchard Way. Planning permission was granted for one dwelling on this site in 2010. The developer must consider it to be more lucrative to sell 2 dwellings rather than 1. Quality of life aspect for new residents and existing neighbours must be considered above the financial gain of maximising property numbers in a small space.

Two letters of no objection - Will the developer guarantee to leave the access road and end portion of Hunters Mews in good order, bearing in mind the potential movements of large vehicles during extensive demolition of the units in Deans Yard? Will the new occupants be aware of the maintenance charge on this portion of Orchard Way and be liable to the annual charge? Would it be appropriate to discuss these concerns with the developers? It would certainly be of great benefit to the residents and allay any fears regarding the proposed date of development and disturbance during building and demolition work. Will drainage and surface water be preserved? The access road is owned by Deans

Comments on Representations received:

The concerns raised by neighbours are a private matter and not relevant planning considerations. The concerns regarding overdevelopment are not shared. The plot sizes are comparable with others in the locality.

CONSULTATIONS

Southern Water Planning

Engineering Services Manager
Engineers (structural)
Engineers (Fluvial Flooding)
Environmental Health
WSCC Strategic Planning

Consultations responses received:

West Sussex County Council Highways
No objection.

It is not considered that there have been any significant material change in circumstances that would justify a change in recommendation from that previously offered. Suggest secure cycle parking is conditioned.

Environmental Health
Comment.

Please apply conditions relating to the submission of a preliminary risk assessment, unsuspected contamination and a verification report.

Engineers
Comment

Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers

Southern Water - A formal application to for a connection to the public foul sewer will be required by the applicant or developer. Informatives suggested.

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:
Outside the Built-Up Area Boundary
Tree Preservation Order
Drainage Area

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#) [GEN3](#)
[GEN7](#)
[GEN12](#)

[Publication Version of the Local Plan \(October 2014\):](#)

Protection of the Countryside
The Form of New Development
Parking in New Development
D DM1 Aspects of Form and Design Quality
D DM2 Internal Space Standards
D DM3 External Space Standards
D SP1 Design
H SP2 Affordable Housing
EMP SP1 Employment land provision

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

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.

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 in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

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: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton. There is no adopted Neighbourhood Plan for Walberton.

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 property.

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 site is located outside the built up area boundary where the principle of new development is unacceptable. In such locations, new dwellings will not be permitted unless the application meets the needs of policy GEN3 of the Arun District Local Plan and/or other relevant policies which seek to protect the countryside for its own sake.

The proposal is considered to be in conflict with policy GEN3 as it fails to meet the relevant criteria set out within this policy. However, as the site is situated within an established residential area, this conflict with policy GEN3 alone is not considered sufficient to refuse planning permission.

SITE HISTORY AND CONTEXT

This application forms a resubmission of previously refused planning applications WA/52/13 and WA/48/14/PL which were for 3 bed dwellings in place of the commercial buildings on site. WA/52/13/PL was dismissed at appeal. The later application for 3no. 2 bed dwellings, represented a reduction of one bedroom and was subsequently refused (WA/48/14/PL). The properties were moved further away from the rear southern boundary to provide a distance of approximately 3.8m.

DESIGN AND VISUAL AMENITY

The number of dwellings has been reduced by one following the previous refused planning application WA/48/14/PL. This has resulted in larger overall plot sizes and detached dwellings which are more in keeping with the character of the area, particularly when compared with the plot sizes to the north. Neighbouring residential development is generally detached in form. The proposal is tighter than others in the immediate locality, but does not constitute over-development of the plot. The garden areas to serve the dwellings are considered acceptable and would be in character with the area. The area predominantly comprises 2 storey development and the provision of chalet style units would accord with this style.

It is therefore considered that the proposal is acceptable in design terms and so complies in this respect with policy GEN7(ii) of the Arun District Local Plan.

INTERNAL SPACE STANDARDS (POLICY D DM2, EMERGING LOCAL PLAN)

There are no shortfalls in the minimum room sizes for the 2no. dwellings. Since the room sizes do meet the required standards, the scheme complies with policy D DM2 of the Emerging Local Plan. They also meet the standards set out in the emerging national standards.

EXTERNAL SPACE STANDARDS (POLICY D DM3, EMERGING LOCAL PLAN)

The rear gardens are 100sqm in area and exceed the 85 sq m area required by policy D DM3, the depth of the gardens at approximately 7.8m and 8.4m does not meet the required distance of 10m. However, it is considered this shortfall is acceptable. The previous appeal Inspector found no issue with the depth of garden.

RESIDENTIAL AMENITY

There is a gap of approximately 1.8m between the southernmost unit and no. 2 Deans Close

which is a reduction in the previous refused distance of 2.2m in application WA/52/13 and 3.6m in application WA/48/14/PL. The southern boundary which comprises of 2m high brick walling will not be sufficient to acceptably screen the new development at two storeys in height. The situation is not assisted by the close proximity of no.3 Deans Close to the south of no. 2 and is stepped further back in arrangement. Whilst the overall height of the dwelling has been reduced to 7m ridge height which is approximately 3.6m from the boundary and the gable end closest to the boundary is 4.5m in height with an eaves of 2m, at its widest/highest point it would be 5m in depth. The combination of height, length adjacent to the boundary and proximity to the boundary would result in an adverse overbearing impact on the rear elevation and garden of 2 Deans Close

This spatial relationship between the proposed dwellings and no.2 still results in a conflict with the 45 degree rule. This Council has adopted the 45 degree rule for determining planning applications to the rear of properties so as to ensure that any development does not seriously affect a neighbour's outlook or daylight. In this case the southernmost unit would intercept the 45 degree line when the line is drawn from the nearest window on the rear elevation of no. 2 Deans Close. It is therefore considered that the development would harmfully and unacceptably affect the outlook for this neighbouring property, as well as causing a harmfully oppressive and unneighbourly effect for approximately half of its garden.

Whilst the existing commercial units extend almost to the end of the garden of no. 2, this is single storey in height and the portion of garden closest to this neighbouring property is undeveloped. The current building is higher than the boundary and will be removed, but the benefits of this loss are outweighed by the fact that the proposed scheme would result in the southernmost dwelling at one and a half storeys in height extending immediately to the rear of no. 2 which will have a harmfully oppressive and unneighbourly effect. Additionally, the benefits of replacing commercial with residential development and providing a gap of 1.8m to the southern boundary would not be sufficient to materially outweigh the harm caused by the scheme. The Inspector when considering WA/52/13 stated that the eaves height of 5.2m set back 2.4m from the site boundary when considered in relation to its length and overall height would appear overpowering and over-dominant when seen from the garden of no.2. Whilst the height has been reduced, the proximity to the boundary has been reduced and the concerns previously outlined have not been adequately addressed.

It is considered that the proposal is unacceptable in residential amenity terms and conflict with policy GEN7(iv) of the Arun District Local Plan.

EMPLOYMENT LAND PROVISION (POLICY EMP SP1, EMERGING LOCAL PLAN)

Since the submission of previous application WA/52/13, there has been a Publication Version of the Arun Local Plan 2011-2031 which was published in October 2014. This did not form part of the reason for refusal of WA/52/13 since the plan was at a very early stage when the application was initially considered. Policy EMP SP1 states that the Council, with partners, will promote the sustainable growth of the District's economy by supporting the provision of a flexible supply of land to meet the varying needs of different economic sectors. Sufficient employment sites and premises will be safeguarded in order to meet the needs of the economy in Arun to 2031 to support job creation, the needs of modern business and the attractiveness of the District as a business location. Amongst the listed criteria, it is considered the loss of 6no. commercial buildings would conflict with (e) 'Protecting and enhancing existing employment sites and premises to meet the needs of business' of policy EMP SP1. Additionally, it would also conflict with (k) Employment land, either in existing use or allocated by this Local Plan, will be protected

for the plan period, subject to regular review and monitoring, to include updates of the housing and economic needs and land availability assessments'. The loss of commercial units for the proposed dwellings would not protect or enhance the employment land or current and future opportunities and so the proposal would conflict with policy EMP SP1 of the Emerging Local Plan.

However, for the unacceptable harm caused to residential amenity and to protection of employment sites, it is recommended that the application be refused for the following reasons.

HUMAN RIGHTS ACT

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 (the 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 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 neutral 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).

RECOMMENDATION

REFUSE

- 1 The proposed southernmost dwelling by virtue of its size and layout within the plot would result in a harmful loss of outlook and create an oppressive and unneighbourly effect on no. 2 Deans Close which would be to the unacceptable detriment of current and future occupiers in conflict with policy GEN7(iv) of the Arun District Local Plan, policy D DM1 of the Emerging Local Plan and the National Planning Policy Framework.
- 2 The proposed residential development would involve the demolition and loss of 6no. commercial units and therefore would unacceptably fail to protect or enhance existing employment land and so conflicts with criteria (e) and (k) of policy EMP SP1 of the Emerging Local Plan and the National Planning Policy Framework.

- 3 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.