

Recommendation Report for Planning Permission**REF NO:** WA/48/14/PL**LOCATION:** Deans Yard
Orchard Way
Fontwell**PROPOSAL:** 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).**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above.
SITE AREA	Approximately 780 square metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
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 6no. 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/52/13/	Demolition of garages/workshops and provision of 3No. three bed houses, associated parking and landscaping.	Refused 07-05-2014	<i>Appealed</i>
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REPRESENTATIONS

Representations received:

Walberton Parish Council

No objection.

Eight letters of objection.

*Cramped development

*Insufficient parking and vehicle turning

*Lack of space for visitors and deliveries.

*Much increased traffic to/from the site.

*The access road leading to the proposed development is in very poor condition with the surface crumbling and many potholes.

*Terrace property is close to No. 18 Orchard Way and would be intrusive.

*Sunlight in the winter months will be greatly affected to no. 20 Orchard Way.

*Collection of refuse and access for emergency vehicles are problematic.

*Potential overlooking from dwellings into no.2 Deans Close.

*Moving the terraced block to a more central position on the site to elevate the cramped boundary situation affecting no. 2 Deans Close effectively makes the development more cramped.

*Parking at the end of the access road to Deans Yard is not on the applicant's land as this belongs to Geoffrey Hudson Dean.

*Terraces too big for the site.

*Out of character with the surrounding area.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Engineering Services Manager

Southern Water Planning

Engineers (Fluvial Flooding)

Environment Agency

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.

Environment Agency

No objection.

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.

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	Protection of the Countryside
	GEN7	The Form of New Development
	GEN12	Parking in New Development
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	
	H SP2 Affordable Housing	
	EMP SP1 Employment land provision	

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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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: Arundel; Barnham & Eastergate; Felpham.

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 site is located outside the built-up boundary and does not comply with the associated criteria set out in policy GEN3. The proposal would also cause harmful over-development of the plot that is contrary to the prevailing development pattern of the surrounding area, as well as creating oppressive and unneighbourly effects on no. 2 Deans Close. The dwellings do not meet the Internal and External Space Standards. The deletion of these employment generating units would also conflict with emerging policy to protect existing employment sites/land.

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 unless there are other conflicts with Local Plan policies which is considered to be the case and are set out below.

SITE HISTORY AND CONTEXT

This application forms a resubmission of previously refused planning application WA/52/13 which

was for 3no. 3 bed dwellings in place of the commercial buildings on site. This application is currently lodged at appeal stage with the Planning Inspectorate.

This application principally differs by now proposing 3no. 2 bed dwellings, a reduction of one bedroom. The terraced row of three properties have also been moved further away from the rear southern boundary by approximately 3.8m.

DESIGN AND VISUAL AMENITY

The proposed number of dwellings (no.3) remains the same as in previous planning application WA/52/13. It is considered that this number and the resulting site coverage compared to the overall size of the plot would be harmfully out of character to its surroundings. Neighbouring residential development is generally detached in form and does not display this concentration of development which would mean that the proposal would run unacceptably contrary to the prevailing development pattern of the area. As with previous application WA/52/13, the proposal constitutes over-development of the plot with neighbouring properties generally having longer front and rear gardens, particularly in Orchard Way. This lower intensity of development is more characteristic and in-keeping with sites located outside the built-up area and so the proposal would run harmfully counter to this.

Stepping the southernmost property further away from the southern boundary by approximately 3.8m would not be sufficient to outweigh this harm and the scheme still has an overdeveloped cramped form and appearance. Therefore, the concerns with the previous application have not been successfully overcome and it still causes harm to the visual amenities of the area.

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

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

There are shortfalls in the minimum room sizes for the 3no. dwellings. The living/dining rooms for all 3no. dwellings measure approximately 24.5 sq m compared to the required 26.8 sq m. Bedroom 1 in all three dwellings measures approximately 10.5 sq m and should be 12 sq m (double room). The ensembles on the first floor for all dwellings measure approximately 3.78 sq m compared to the required 4.4 sq m. The WCs on the ground floor for all dwellings measure approximately 1.8 sq m and should be 2.7 sq m.

This failure to comply with the internal space standards is further indication for the cramped and over-developed layout and appearance of the site. Since the room sizes do not meet the required standards, the scheme conflicts with policy D DM2 of the Emerging Local Plan.

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

Whilst the rear gardens exceed the required 50 sq m in area, the depth of the gardens at approximately 7.8m does not meet the required distance of 10m. The scheme therefore conflicts with policy D DM3 of the Emerging Local Plan.

RESIDENTIAL AMENITY

There is a gap of approximately 3.8m between the southernmost unit and no. 2 Deans Close which is a considerable improvement on the previous distance of 2.2m in application WA/52/13. Even so, 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.

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 application 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 effect 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 extends 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. In contrast, the proposed scheme would result in the southernmost dwelling at two 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 3.8m to the southern boundary would not be sufficient to materially outweigh the harm caused by the scheme.

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 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.

AFFORDABLE HOUSING CONTRIBUTION

A S106 unilateral undertaking has been secured for an affordable housing contribution of £18,369. The scheme therefore complies with policy H SP2 of the Emerging Local Plan.

However, for the unacceptable harm caused to visual amenity, residential amenity, conflict with internal and external space standards and emerging policy to protect employment sites, it is recommended that the application be 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 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, a neutral impact has 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 dwellings by virtue of their number and site coverage compared to the plot size would cause harmful over-development and would be unacceptably contrary to the prevailing development pattern of the surrounding area in conflict with policy GEN7(ii) of the Arun District Local Plan and policies D DM1 and D SP1 of the Emerging Local Plan and the National Planning Policy Framework.
- 2 The size of the proposed dwellings would result in an under-provision in room sizes and a shortfall of rear garden land that is in conflict with the Internal Space Standards of policy D DM2 and the External Space Standards of policy D DM3 set out in the Emerging Local Plan.
- 3 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.
- 4 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.
- 5 **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.