

Recommendation Report for Planning Permission

REF NO: WA/68/21/PL

LOCATION: Land Adjacent to
1 Orchard Way
Fontwell
BN18 0SH

PROPOSAL: Variation of condition 13 imposed under WA/18/19/PL relation to updated (July 2021) Arboricultural Impact Assessment.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Planning permission WA/18/19/PL was approved subject to condition 13 which stated: 'All activity at the site is to be carried out in strict accordance with: - Arboricultural Impact Assessment (Arbortrack Systems Ltd, ref: jwmb/ rpt1/ 1orchardway/ AIAAMS, 15th December 2018 amended 4th March 2019). Reason: To comply with BS5837 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised and they can continue to enhance the landscape and amenity of the area in accordance with policy ENV DM4 of Arun Local Plan.' The application has been submitted to amend the wording of the condition to omit reference to : ... (Arbortrack Systems Ltd. ref: jwmb/rpt1/ 1 orchard way/ AIAAMS, 15th December 2018 amended 4th March 2019). and to update it to refer to ...(Arbortrack Systems Ltd. ref: jwmb/rpt1/ 1 orchard way/ AIAAMS, 15th December 2018 amended 7th July 2021).
TOPOGRAPHY	Predominantly flat.
TREES	A number of large trees have previously been removed from the site. There is a large Oak tree within the rear portion of the site which is protected by a Tree Preservation Order (TPO).
BOUNDARY TREATMENT	Site is enclosed by temporary contractors fencing.
SITE CHARACTERISTICS	Building works are underway. The site was in part, the garden of 1 Orchard Way. The A27 westbound carriageway is 12m to the north. To the west is overgrown scrubland and a walkway with a pedestrian underpass. The host dwelling is a one-and-a-half storey detached dwelling. The dwelling comprises brick walls and a tiled roof, with gable ends. It has a projecting pitched roof element to the front elevation and rear dormer.

CHARACTER OF LOCALITY

Cul-de-sac development located south of main A27. Area characterised by residential development with mainly detached properties of varying design, scale and appearance both single and 2 storeys in height.

RELEVANT SITE HISTORY

WA/45/21/NMA	Non material amendment following WA/18/19/PL for the insertion of a Velux type rooflight above first floor head height within attic to Unit 1.	Approve 07-06-21
WA/26/20/PL	Variation of conditions 2 , 7 and 13 following the grant of WA/18/19/PL relating to landscaping to allow for removal and replanting of boundary hedging.	ApproveConditionally 22-05-20
WA/18/19/PL	Erection of 2 No. detached dwellings, adaptation to existing crossover & new driveway (resubmission following WA/58/18/PL).	ApproveConditionally 06-06-19

REPRESENTATIONS

Walberton Parish Council - No Objection

One Objection

- This is a most dangerous idea.
- The sheer volume of traffic that will use Tye Lane will mean traffic stuck at head on position! It will also be dangerous with that amount of traffic passing through the village with the school entrance on the route! No research has been put into this decision surely. Even a child could point out the flaws in this idea.

COMMENTS ON REPRESENTATIONS RECEIVED:

The principle of development has already been approved and is not being considered as part of this proposal.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Tree Officer - No Objection

Approved above-ground Tree Protection Measures have already been positioned and installed correctly. Ad-hoc inspections will be necessary to ensure ongoing compliance.

While this scheme demands construction work within the nominal root protection area of a significant tree (oak - T2) adequate tree protection measures/construction methods are to be employed. It is achievable

without undue detriment, providing there is adequate oversight and retained arboricultural input to ensure full and correct implementation of the same, as per the approved AIA & MS (see section 1.6 Site Monitoring). Request imposition of an appropriate condition.

COMMENTS ON CONSULTATION RESPONSES:

- comments noted. The tree officer is requesting additional wording to the proposed amended wording of condition 13 referring to Utility Service Route connections bisecting retained tree Root Protection Areas. This is already the subject of condition 15 of the original approval and does not need to be included in the revised wording of condition 13.

POLICY CONTEXT

Designation applicable to site:
Within the Built Up Area Boundary.
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity

Walberton Neighbourhood Plan Policy 2019-2031 Protection of Trees and Hedgerows
VE3

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans 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.

The relevant policy within Walberton Neighbourhood Plan has been considered.

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 comply with relevant Development Plan policies in that there would be no adverse impact on the health of the tree.

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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

The principle and planning grounds of approval of the original planning permission WA/18/19/PL are affected by the proposal. The variation of condition 13 only relates to the impact of the development on the preserved tree, all other aspects of the application including character and design, residential amenity, highways and access, noise, drainage and ecology cannot be re-considered as part of this proposal.

IMPACT ON TREES

The Oak tree on the site has been protected following concern by the Council's tree officer that the site was not properly surveyed for trees initially at the time of submission of the original application WA/58/18/PL. An Arboricultural Impact Assessment and Method Statement were provided with the later application WA/18/19/PL which repositioned the dwellings 3.6m closer to the Orchard Way site frontage. The Tree Officer was satisfied that the health of the tree would not be compromised by the development. Long term maintenance would be controlled given that the tree is the subject of a Tree Preservation Order. The proposal therefore accorded with policy ENV DM4 of Arun Local Plan and was approved subject to condition 13 which ensured the tree was retained and afforded appropriate protection.

The amendment to the previous seeks removal of screw piling foundations which formed the basis of Appendix F para 1.3.5 which are now deleted from the amended Statement . This proposal includes an updated Appendix A and alters the Tree Protection Plan to refer to shallow concrete raft foundations. The revised Arboricultural Impact Assessment & Method Statement (Arbortrack Systems Ltd, ref: jwmb/ rpt1/ 1orchardway/ AIAAMS, 7th July 2021) inclusive of Tree Protection Plan has been reviewed by the tree officer.

The Tree Survey data is comprehensive and accords with the requirements of BS5837:2012 and the above report describes and illustrates refinement to the methodology required to satisfactorily implement the latest foundation proposal for both dwellings.

On this basis the tree would be adequately protected in accordance with policy ENV DM4 of the Local Plan and policy VE3 of Walberton Neighbourhood Plan.

SUMMARY

The proposed development is recommended for permission subject to the amended following condition.

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) 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 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

APPROVE CONDITIONALLY

- 1 Condition 13 imposed under WA/18/19/PL is amended to read:
All activity at the site is to be carried out in strict accordance with: - Arboricultural Impact Assessment & Method Statement (Arbortrack Systems Ltd, ref: jwmb/ rpt1/ 1orchardway/ AIAAMS, 7th July 2021) and Tree Protection Plan (Appendix A, Rev D, July 2021).

Reasons: To comply with BS5837 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised and they can continue to enhance the landscape and amenity of the area.
- 2 **INFORMATIVE:** This decision only varies Condition 13 and all other conditions imposed under the original approval(WA/18/19/PL) remain in effect unaltered.
- 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.