

Recommendation Report for Planning Permission

REF NO:	Y/127/20/PL
LOCATION:	Land at Main Road Yapton BN18 0EB
PROPOSAL:	Construction of new access to serve residential development. This application affects the setting of listed buildings, affects the character & appearance of the Main Road/Church Road Conservation Area & the site falls within Strategic Site SD7 (Zero Rated).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the upgrading of the existing Drove Lane/Main Road access in order to provide safe access into the proposed site of up to 300 new homes. The access will be upgraded with a 5.5m wide carriageway, 2.0m wide footway and 12m radii. Also proposed is a tactile paved crossing point on Main Road to the south east of the access. The upgrade works extend roughly 11m back from the highway edge. The plans show the line of the highway drainage system and a double row of granite sets to be installed if WSCC do not adopt the proposed new site roads within the associated residential development.
SITE AREA	308 square metres.
TOPOGRAPHY	The access rises up from Main Road and a 1:4 gradient is proposed.
TREES	None affected by the access works.
BOUNDARY TREATMENT	There are railings (with post & wire fence beyond) around the adjacent field to the south east.
SITE CHARACTERISTICS	This is an existing access junction connecting Drove Lane to Main Road. It is bordered by a field to the south east known locally as the "Sheep Field" and an overgrown verge to the north west. The access is part within the Yapton Main Road Conservation Area.
CHARACTER OF LOCALITY	Predominantly rural with the site of the access currently within countryside but opposite existing homes on Main Road including Grade II Listed buildings. However, the existing open fields adjacent and opposite have planning permission for new homes.

RELEVANT SITE HISTORY

Y/78/20/RES	Approval of reserved matters following outline consent Y/92/17/OUT for 300 No.dwellings covering landscape, layout, public open space, drainage, scale & external appearance. This application affects the setting of listed buildings, affects the character & appearance of the Main Road/Church Road, Yapton Conservation Area & affects a Right of Way. This site falls within Strategic Site SD7 (Zero Rated).	Refused 07-12-20
Y/41/20/DOC	Approval of details reserved by condition imposed under ref Y/92/17/OUT relating to Condition No 6 - design code masterplan.	DOC Approved 29-07-20
Y/92/17/OUT	Outline application with all matters reserved save access, App Cond with S106 for up to 300 dwellings, link road, surface drainage, open space and landscaping. Departure from the Development Plan and Access route is within the Yapton (Main Road) Conservation Area.	31-05-19

The access forms part of a site that has outline planning permission for up to 300 homes approved in May 2019 (Y/92/17/OUT). The access will partly serve an adjacent site (land at Bilsham Road) which benefits from outline permission for up to 250 dwellings granted in April 2019 (Y/91/17/OUT).

REPRESENTATIONS

Yapton Parish Council raise no objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND - Express concern that the condition recommended by them at outline stage were not included in the recommendation. The condition in question would have prevented any more than 199 dwellings from being occupied until the A27/Yapton Lane junction improvement had been completed. State that the non-inclusion of this condition would have required approval by the Secretary of State for Transport. Have suggested a differently worded version of the previous condition to apply to this standalone access permission.

SOUTHERN WATER - No objection. State that separate approval will be required should any works affect the sewer presently underneath the centre of Main Road.

WSCC HIGHWAYS - Confirm the site access now has Section 278 approval and advise no objections.

ADC DRAINAGE ENGINEER - drainage in the Section 278 area should be reviewed by the highways authority recommend no conditions. The area draining to the highway system will need to be consistent with the eventual site surface water drainage scheme for the residential development and that no development should occur prior to the approval of the site wide surface water drainage scheme.

ADC CONSERVATION OFFICER - The development will result in "less than substantial harm" in accordance with paragraph 196 of the NPPF (2019). Therefore it will be necessary to consider the public benefits that the development may achieve as part of the application assessment. Separately raises concern with the loss of the existing estate railings and questions whether this will be reinstated. If not this will harm the character of the area.

No response from ADC's Tree Officer.

COMMENTS ON CONSULTATION RESPONSES:

HIGHWAYS ENGLAND - It is acknowledged that the Local Planning Authority did not notify the Secretary of State of its intention to grant the Outline planning permission without the requested condition. The reason for this was that the A27 junction improvements were to be delivered in association with two different sites (Tye Lane, Walberton or Stakers Farm, Yapton), whichever came first. It was not considered necessary to impose a restriction on that permission also.

The Council obtained legal advice which confirms that the outline permission remains valid despite the omission of the condition not having been agreed with the Secretary of State for Transport. However, it is now be reasonable to impose a version of the previous condition on this new standalone access application. The condition as proposed has been agreed with Highways England.

ADC DRAINAGE ENGINEER - The point of this application is to enable the access to be constructed independently of the residential development and so have the access arrangements in place ready for use by construction vehicles. It would not be appropriate to prevent the access from being constructed until a drainage scheme has been agreed for the entire site.

ADC CONSERVATION OFFICER - The question about railings can be agreed through the reserved matters application as the area either side of the access is in the red edge set by Y/92/17/OUT. The Conservation Officer has been advised to raise this when the reserved matters application is submitted.

POLICY CONTEXT

Designations applicable to site:

Part within/part outside the Built Up Area Boundary;
Lidsey Treatment Catchment Area;
Part within/part outside the Yapton Main Road Conservation Area;
Within the Setting of a Grade II Listed Building (Elm Barn);
Area of Special Control of Adverts;
Flood Zone 1;
Non-adopted highway; and
Part CIL Zones 1, 2 & 3.

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
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
CSP1	C SP1 Countryside
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
HERSP1	HER SP1 The Historic Environment
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
Yapton neighbourhood plan 2014 Policy BB1	Built-up Area Boundary

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD2	Conservation Areas
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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 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.

The relevant policies of the Yapton Neighbourhood Plan have been considered within this report.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 70(2) of 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.

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 complies with relevant Development Plan policies in that the access arrangements will not result in any adverse impact upon highway safety.

Section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states: "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

In addition, section 72(1) of the Act states: "In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The proposal complies with these requirements in that the access is an existing junction and the upgrading works will not result in any harm to the character of the Conservation Area or to the setting of the Listed Building.

OTHER MATERIAL CONSIDERATIONS

It is material that the access arrangements are the same as per the outline permission Y/92/17/OUT which remains capable of being implemented (subject to approval of the reserved matters).

CONCLUSIONS

BACKGROUND, PRINCIPLE & HIGHWAY SAFETY:

These access arrangements have been approved by Y/92/17/OUT and would, subject to approval of the reserved matters concerning the proposed residential development, be capable of implementation.

This application has been submitted because pre-commencement conditions on those permissions prevent early implementation of the access. The applicant considers that this proposal will deliver the access in a more timely fashion and minimise disruption as part of the forthcoming process.

The site of the access lies partly in the built up area boundary and partly outside with the dividing line corresponding with the southern edge of Drove Lane. The countryside policies in the development plan (ALP policy C SP1, YNDP policy BB1) do not suggest that the principle of upgrading an existing road access is inappropriate in the countryside.

ALP policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. In respect of highway safety, it states: "The Council will support transport and development which: explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

WSSC Highways previously raised no objections to the principle of the upgraded access or the proposed configuration/dimensions and they have maintained this view.. They confirm that the access has the benefit of Section 278 approval. It is not considered that anything has changed on the ground or in policy terms to justify taking a different decision to the previous outline permission or to require any additional highway improvements. It is considered the proposed access remains in accordance with relevant development plan policies and in respect of the guidance with the NPPF on highway safety.

WSSC Highways do not request any conditions however, it is considered necessary to reimpose the Construction Management Plan condition from the Outline planning permission to ensure that the access works do not prejudice other road users and person living near the site.

HERITAGE:

The access upgrading works are partly in and partly outside but adjacent to the Yapton Main Road Conservation Area. In addition, there is a grade II Listed Building (Elm Barn) diagonally opposite the access to the south east. Drove Lane itself has been acknowledged as being part of a former historic droving route and although it has since been adapted to provide vehicular access & features a tarmacadam surface, it is therefore a non-designated heritage asset.

Relevant Arun Local Plan (ALP) policies are HER SP1 (The Historic Environment), HER DM1 (Listed Buildings) and HER DM3 (Conservation Areas).. HER SP1 states that development likely to prejudice heritage assets including Non-Designated Heritage Assets and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. HER DM3 lists criteria for proposals affecting the setting of a Conservation Area and those relevant are:

- (e) It retains historically significant boundaries, important open spaces and other elements of the area's established pattern of development, character and historic value, including gardens, roadside banks and verges; and
- (f) It does not harm important views into, out of or within the Conservation Area.

Yapton Neighbourhood Development Plan (YNDP) policy E8 states that development proposals will be required to preserve or enhance the character of the Conservation Areas. Policy E9 refers to Listed Buildings but only concerns the loss of such buildings and does not refer to impacts on setting.

Section 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that: "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." Section 72(1) states: "In the exercise, with respect to any buildings or other land in a conservation area, of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

It is necessary to consider guidance in the National Planning Policy Framework (NPPF) which sets out several steps that must be followed when considering impact on heritage assets. Para 189 requires

applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 190 then requires Local Planning Authorities to identify and assess the particular significance of the heritage asset that is affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide there is no harm, 'less than substantial harm' or 'substantial harm'. It is then necessary to counterbalance harm with the level of public benefits associated with the proposal (as set out in paras 193-196).

Separately, in respect of non-designated heritage assets (Drove Lane), it is necessary to refer to the guidance in para 197 of the NPPF. This states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Heritage impact was considered at the outline stage at which time it was concluded the proposal would not impact on the significance of Drove Lane and that the whole proposal would result in 'less than substantial harm' to the Conservation Area and Listed Buildings but that the level of public benefit would outweigh this impact.

The applicants provided a Built Heritage Statement (Nov 17) which was provided with Y/92/17/OUT. This concludes that the development will not cause harm to the significance of any designated or non-designated heritage assets. There will be a negligible impact on the setting of nearby heritage assets but these impacts will not affect their heritage significance. Despite the age of this appraisal, it is not considered that its conclusions are incorrect.

The Conservation Officer considers the proposal results in less than substantial harm to the heritage assets. The Local Planning Authority accepts this view particularly as it reflects the officer advice given on the outline application. As such, it is necessary to weigh this harm against the public benefits that the development may achieve.

This application only provides for the upgraded access point but this access will only be constructed if reserved matters is granted for the residential development. Therefore, although, strictly speaking it is only relevant to consider the benefits of the access works alone, it is also reasonable to consider the wider benefits of the associated development. These comprise of:

- New safer access junction onto Main Road (noting that Drove Lane serves existing residential properties, a farm, a Solar Farm, a Scout Hut and within the same building a small pre-school);
- New pedestrian crossing point on Main Road;
- 300 homes to contribute to the Councils current housing land supply shortfall/meet future needs;
- new affordable housing;
- new public open space & play facilities available for use by existing & new residents;
- new & enhanced public foot & cycle paths available for use by existing & new residents provide safer access between Main Road and Bilsham Road (albeit subject to delivery of the other half of the strategic allocation SD7);
- the developer contributions and other infrastructure improvements as set out in the S.106 Agreement for application Y/92/17/OUT;
- an increase in Council Tax receipts;
- potential 'New Homes Bonus' payments from the Government;
- the creation/maintenance of construction jobs; and
- additional spending by new residents on local goods & services.

The public benefits are of a level that the "less than substantial harm" can be outweighed and that the proposal can be considered in accordance with the NPPF guidance and therefore compliant with the relevant development plan policies.

Para 197 of the NPPF advises that harm to non-designated heritage assets should be subject to a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. Although physical works are proposed to Drove Lane, it is not considered these will be harmful to its heritage significance and in any case any harm is outweighed by the benefits as set out above.

In respect of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, whilst the setting of such designated heritage assets will be subject to some harm, it is not considered this harm is significant and can be outweighed by the strength of the public benefits.

BIODIVERSITY:

ALP policy ENV DM5 states that: "Development schemes shall .. protect existing habitats on site" and "Where there is evidence of a protected species on a proposed development site, planning applications shall include a detailed survey of the subject species, with details of measures to be incorporated into the development scheme to avoid loss of the species."

The outline planning permission was subject to a condition requiring that development proceed in accordance with the mitigation measures set out in the Detailed Reptile Survey Report November 2016. It is not clear whether the small areas of land either side of the access (into which the access will be widened) have any ecological value but it is proposed to take a precautionary approach and impose the same condition as before and also a separate condition designed to ensure that ground based mammals are not trapped/harmed during the access works. On this basis, the proposal is in accordance with policy ENV DM5.

OTHER MATTERS:

It is not considered that the creation of the access has any adverse impact on the character of the area, on residential amenity or in respect of flood risk. There is no reason to believe that the access upgrade works will be completed and left as the developers will not want to spend the money carry out the works if they cannot also construct the associated residential dwellings.

SUMMARY:

The proposed upgrading of the access is acceptable and complies with all relevant development plan policies. It is therefore recommended that the application be approved in accordance with the following conditions.

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 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

PLN-1-1116 Rev - "Section 278 Location Plan";
CIV_1_4003 Rev F "Section 278 Agreement Plan"; and
CIV_1_4000 Rev F "Section 278 General Arrangement and Proposed Levels Plan".

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1 and T SP1 of the Arun Local Plan.

- 3 Prior to the commencement of development concerning the access works, a Construction Management Plan shall be submitted for approval in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period for the access. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and routing of vehicles during construction,
- Full details of any construction compound,
- Dust mitigation measures,
- Noise reduction measures,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant, materials and waste used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision of effective wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- Details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with policies D DM1, T SP1 and QE SP1 of the Arun Local Plan. It is considered necessary for this

to be a pre-commencement condition because of the safety and amenity issues that need to be addressed.

- 4 Prior to the commencement of development the mitigation strategy for reptiles shall be implemented in accordance with the details specified within the "Detailed Reptile Survey Report (November 2016)" as provided with and approved by application Y/92/17/OUT.

Reason: This condition is necessary to ensure the protection of reptiles and supporting habitat in accordance with policies ENV SP1 and ENV DM5 of the Arun Local Plan.

- 5 No more than 199 dwellings on any land associated with application Y/92/17/OUT and facilitated by the access hereby permitted shall be occupied prior to the opening to traffic of the improvements to the A27/Yapton Lane junction shown on i-Transport's drawing number ITB11324-GA-014 Revision C "Proposed extension to A27 Yapton Lane right turn" dated 30/8/17 (or some other such scheme as may be submitted to and agreed in writing by the local planning authority who shall consult and obtain the written agreement of Highways England).

Reason: To ensure that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety and to prevent environmental damage and in accordance with Arun Local Plan policy T SP1.

- 6 The visibility splays of 2.4m by 59m to the north west and 2.4m by 59m to the south east shall be permanently maintained and kept free of all obstructions over a height of 0.6m above adjoining carriageway level.

Reason: In the interests of road safety and in accordance with policy T SP1 of the Arun Local Plan and the National Planning Policy Framework.

- 7 No raw materials, finished or unfinished products or parts, crates, packing materials or waste associated with the construction of the access shall be stacked or stored on the site except within the storage areas identified in the Construction Management Plan the subject of condition 3.

Reason: To safeguard the amenities of neighbouring properties in accordance with policy D DM1 of the Arun Local Plan.

- 8 Any deep pits or holes present on the site during construction works shall have a secured plank within them to allow a means of escape for any small animals.

Reason: In accordance with Arun Local Plan policy ENV DM5 and the National Planning Policy Framework.

- 9 During the construction phase no machinery/vehicles or plant shall be operated on the site, no process shall be carried out and no deliveries taken at or dispatched except between the hours of:

7.00 a.m. and 6.00 p.m. on Mondays to Fridays inclusive

8.00 a.m. and 1.00 p.m. on Saturday

Not at any time on Sundays or Public Holidays

Reason: To protect the amenities of nearby residents in accordance with Arun Local Plan policies QE SP1 and QE DM1. This condition is the same as was imposed by Y/92/17/OUT.

- 10 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.

- 11 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on 01903 737555.
- 12 INFORMATIVE: The applicant's attention is drawn to the requirements of the Environmental Protection Act 1990 and the Clean Air Act 1993 with regard to burning on site. A 'Statutory Nuisance' may be caused by smoke and ash from fires or noise from the cutting or chipping trees. In addition, air quality could be adversely affected on large projects. The granting of this planning permission does not permit a statutory nuisance to be caused. The Environment Agency should also be contacted regarding Exemption Permits to burn on site.
- 13 INFORMATIVE: The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
- 14 INFORMATIVE: This development involves work to the public highway (strategic road network) that can only be undertaken within the scope of a legal Agreement between the applicant and Highways England (as the strategic highway company appointed by the Secretary of State for Transport). Planning permission in itself does not permit these works.

It is the applicant's responsibility to ensure that before commencement of any works to the public highway, any necessary Agreements under the Highways Act 1980 are also obtained (and at no cost to Highways England). Works to the public highway will normally require an agreement, under Section 278 of the Highways Act, with Highways England.

Advice on this matter can be obtained from the Spatial Planning Team, Highways England, Bridge House, Walnut Tree Close, Guildford, Surrey, GU1 4LZ. Email planningse@highwaysengland.co.uk Tel 0300 123 5000. Highways England would be content for developers of the various sites subject to a similar condition to work together to design, agree, fund and deliver the required mitigation.

- 15 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.