Recommendation Report for Planning Permission

REF NO: Y/141/21/PL

LOCATION: Land East of Drove Lane
Yapton
BN18 0EB

PROPOSAL: Temporary Sales Cabin & associated landscaping. This application may affect the setting of listed buildings, may affect the character & appearance of the Main Road/Church Road Conservation Area, affects a Public Right of Way & is in Strategic Site SD7 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Erection of a temporary sales cabin with 6 visitor parking spaces. The cabin measures 10.04m by 3.4m with a height of 3.45m. It has a sales area, kitchen and toilet. No materials are specified but as per the submitted advertising plans, it is shown to have grey print graphics covering the exterior. The cabin is proposed to be open 9am to 6pm every day. The applicant has applied for the cabin on a temporary 2 year basis. The application includes a landscaping scheme which includes trees, hedges, shrub and grassland planting. The sales cabin will drain to ground with the proposed landscaping assisting in intercepting rainfall. The hard surfaced areas will be constructed using porous paving to catch any run-off from the cabin's associated roads/footpaths.
SITE AREA	0.03 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	None other than the tall hedge between the site and the adjacent 'sheep field' which fronts Main Road. This hedge is not affected.
SITE CHARACTERISTICS	Part of a former agricultural field set back from Main Road and predominantly behind an existing hedge.
CHARACTER OF LOCALITY	Predominantly rural albeit that the site has permission for a development of 300 homes. The rectangular field along the Main Road frontage is known locally as the Sheep Field and is within the Yapton Main Road Conservation Area. There are also two existing Grade II listed residential properties on the opposite side of Main Road to the east.

RELEVANT SITE HISTORY

Y/142/21/A	Various advertisements in various locations.	
Y/49/21/RES	Approval of reserved matters following Y/92/17/OUT for 300 No. dwellings covering landscape, layout, scale & external appearance (resubmission following Y/78/20/RES). 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).	
Y/31/21/PL	Temporary sales cabin & associated landscaping. This application may affect the setting of listed buildings, may affect the character & appearance of the Main Road/Church Road Conservation Area & is in CIL Zone 3 (Zero Rated) as other development.	Refused 05-05-21
Y/32/21/A	Various non illuminated advertisements.	Refused 05-05-21
Y/92/17/OUT	Outline application with all matters reserved save access, 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.	App Cond with S106 31-05-19

The site forms part of a wider extent of land that has outline and reserved matters planning permission for 300 homes (refs Y/92/17/OUT & Y/49/21/RES). It is noted that the area of the site on which the sales cabin will be sited is proposed by Y/49/21/RES to be cultivated turf and seeded amenity grass mix. The other parts of the layout (visitor parking spaces, footpaths) all reflect what has already been approved by Y/49/21/RES.

Planning permission was previously refused for the sales cabin (Y/31/21/PL) and associated advertising (Y/32/21/A) due to visual harm from their siting on the road frontage. The previous refusal reason associated with Y/31/21/PL was:

"The site lies in the countryside and the cabin will be in a prominent open position resulting in harm to the character & appearances of the area and streetscene. There will be further harm to the adjacent Conservation Area and the nearby Grade II Listed Buildings. There is no clear timespan for the proposed cabin and it has not been demonstrated that it cannot be sited in a less prominent position. The proposal conflicts with Arun Local Plan policies C SP1, D DM1, HER SP1, HER DM1, HER DM3 & LAN DM1, Yapton Neighbourhood Development Plan policies BB1 & E8 and with the guidance in the NPPF."

REPRESENTATIONS

Yapton Parish Council initially objected but on the basis of the adverts which are not proposed by this application. On 01/12/21 they wrote to formally withdraw that objection.

One objection concerned as to how long the cabin will be present for and its impact on road safety.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. The application confirms that the adverts will be required for a temporary 2 year period. There will be no harm to road safety as the sales cabin is within the existing site and the adverts are not being determined by this application.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - no objection to the principle of the development or the parking provision.

WSCC PUBLIC RIGHTS OF WAY - have requested that the applicant demonstrate that the proposal will not obstruct the route of FP200_1.

ADC DRAINAGE ENGINEERS - requested details of how the cabin will be drained and after receipt of this stated no objection due to the temporary nature of the proposal.

ADC CONSERVATION OFFICER - the proposal will not cause harm due to it being temporary in nature and partially screened from the heritage assets by the hedge. As a consequence, the application should be determined in accordance with the relevant policies within the Development Plan and the Planning (Listed Buildings and Conservation Areas) Act 1990. Also considers that the landscaping should be more mature to have any significant positive impact for the time that it is to be present.

ADC LANDSCAPE OFFICER - no objection due to the temporary nature subject to reversion of the area and landscaping as per the approved plans post sales cabin removal. States that the landscaping as detailed on the "Detailed Landscape Proposals Temporary Sales Cabin" (JBA 19/291-11 Rev A) proposes an ornamental scheme which will provide instant aesthetic impact and will provide for an ornamental setting for the temporary sales cabin in this location.

COUNCIL's ECOLOGIST - Request clarification as to how the sales cabin will interact with the agreed ecological enhancements for the whole site and state that should there be a conflict then this will need to be addressed with alternative mitigation.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted except as set out below.

WSCC PUBLIC RIGHTS OF WAY - The applicant has amended the plan to show the cabin re-orientated/moved further from the footpath. WSCC PRoW have been re-consulted and they have confirmed that the cabin will not obstruct the footpath.

CONSERVATION OFFICER - The request for more mature landscaping is noted but this view is not

shared by the Landscape Officer and it is also noted that the Conservation Officers considers there to be no harm to heritage assets.

COUNCIL's ECOLOGIST - The area of the site on which the sales cabin will be sited is proposed by Y/49/21/RES, to be cultivated turf and seeded amenity grass mix. The Habitat and Ecological Management Plan as approved and referenced in condition 13 of Y/92/17/OUT states that the hedge supports reptile & bird populations and should be retained with bird boxes added to the site. It also proposes the planting of wildflower meadows and other native planting. The proposal does not interfere with any of these. The Biodiversity Net Gain Statement submitted with Y/49/21/RES shows a House Martin bird box within the existing hedge adjacent to the site but the sales cabin would not conflict with this.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary (BUAB);
Lidsey Treatment Catchment Area;
Adjacent to the Yapton Main Road Conservation Area;
Within the Setting of a Grade II Listed Building (Elm Barn);
Area of Special Control of Adverts;
Public Right of Way FP200_1;
Flood Zone 1; and
Part CIL Zones 1, 2 & 3.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
ENVDM5	ENV DM5 Development and biodiversity
HERSP1	HER SP1 The Historic Environment
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
LANDM1	LAN DM1 Protection of landscape character
QESP1	QE SP1 Quality of the Environment
QEDM2	QE DM2 Light pollution
TSP1	T SP1 Transport and Development

Yapton neighbourhood plan 2014 Policy BB1	Built-up Area Boundary
Yapton neighbourhood plan 2014 Policy E4	Minimising the environmental impact of development
Yapton neighbourhood plan 2014 Policy E8	Conservation Areas
Yapton neighbourhood plan 2014 Policy E11	Minimising the impact of flooding from development

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13 Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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 policies of the Yapton Neighbourhood Development Plan (YNDP) have been considered within this report. Yapton are currently working on a revised YNDP and are currently at regulation 16 stage such that it is necessary to refer to the emerging policies. It is noted that the new plan shows the site as being within the BUAB.

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 it will not result in any harm to the nearby heritage assets, to the character of the area, to existing footpaths or to local ecology.

The proposal may affect the setting of the adjoining Conservation Area and nearby Grade II Listed buildings. Section 66(1) 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."

The proposal is not considered to result in any harm to the listed buildings as it is largely screened from view behind an existing landscape feature (hedge).

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 site lies within the built up area boundary and within the strategic allocation ref SD7 as designated by the Arun Local Plan (ALP). The site is outside of the BUAB in the Yapton Neighbourhood Development Plan (YNDP) but it is material that the emerging revised YNDP shows it as within the BUAB. In addition, section 38(5) of the Planning and Compulsory Purchase Act 2004 sets out that where there is conflict between two plans forming part of the overall development plan, then the most recent plan takes precedence. The ALP is the newer document and so there is no conflict with the principle of the development in this location.

HERITAGE:

The site is adjacent to the edge of the Main Road Conservation Area and partially in sight of two Grade II Listed Buildings. Drove Lane has also previously been acknowledged as being part of a former historic droving route and although it provides vehicular access & features a tarmacadam surface, it is still a non-designated heritage asset (NDHA).

ALP policy HER SP1 states that development likely to prejudice heritage assets including NDHA's and their settings will be refused. Policy HER DM1 requires that proposals protect and, where possible, enhance the setting of Listed Buildings. Policy HER DM3 states that new buildings/structures within Conservation Areas must respect character in terms of layout, form, scale, detailing, materials. Development should also retain important open spaces & other elements of the area's established character and preserve important views into/out of the Conservation Area. YNDP policy E8 states that development proposals will be required to preserve or enhance the character of the Conservation Areas.

Section 66 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." Section 72(1) refers to Conservation Areas but is only relevant for development within the area (not development affecting setting).

The NPPF sets out several steps that must be followed when considering impact on heritage assets. Para 194 requires applicants to describe the significance of heritage assets affected, including any contribution made by their setting. Para 195 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 consider the level of harm associated with the proposal and decide whether there is no harm, 'less than substantial harm' or 'substantial harm'. It is necessary to counterbalance harm with the level of public benefits associated with the proposal (as set out in para 202).

In respect of non-designated heritage assets, para 203 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. There will be no loss of any undesignated assets and no direct harm either.

The application supporting statements do not assess the significance of the known heritage assets but this site is well known to officers and the heritage assets have been previously assessed through the outline and reserved matters applications.

The Conservation Officer does not consider that the proposal will give rise to any harm to the nearby designated heritage assets due to the sales area being partially screened by the existing hedge and for only a temporary period. As such, it is not necessary to consider public benefits.

The proposal accords with ALP policies HER DM1 & DM3 (and YNDP policy E8) as the proposal has been sited to minimise harm to the nearby heritage assets. It will be predominantly screened by the existing hedge with only approx. 3.4m of the structure visible where it extends northwest from the end of the hedge. It is also sited some distance back from Main Road with the listed buildings being on the other side of this. Furthermore, the temporary nature of the sales cabin will mean that the impact is not permanent. Overall, the proposal will preserve the character of the Conservation Area.

CHARACTER:

ALP policies D SP1 and D DM1 require development makes the best possible use of land by reflecting or improving the character of the site/surrounding area. ALP policy LAN DM1 requires that new development repair or reinforce the character of the landscape. There are no design policies in the YNDP. The Arun Design Guide does not contain any guidance specific to temporary or sales buildings but does state more generally that development within rural areas must be sensitively and appropriately integrated into the landscape setting and use simple, unobtrusive design

The sales cabin has a simple functional form in that it is single storey with a flat roof and a rectangular shape. As stated elsewhere it will be largely hidden from view of Main Road by an existing hedge but the northern end will be visible and the whole of the cabin will be visible to persons using the adjacent footpath or the footpath along Drove Lane. However, its visual impact is mitigated by it only being for a temporary period and by its association with a large construction site which will have its own temporary visual impacts.

The presence of a sales area would not be surprising to persons walking near a large construction site. The proposed landscaping whilst low level will provide some benefit to local visual amenity. For these reasons, the proposal will be in accordance with the relevant policies.

HIGHWAYS AND PARKING:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

WSCC Highways raise no objections. It is clear that the proposal is temporary in nature and there will limited movements to/from the site with only 6 parking spaces shown. These 6 spaces will be retained once the sales area is removed from the site as they (along with the new footpaths) form part of the reserved matters scheme.

In respect of the existing footpath, WSCC PRoW have now confirmed that the cabin will not obstruct the footpath.

It is not considered that the proposal will exacerbate any existing highway safety concerns to such an extent as to result in a severe or unacceptable impact as per the NPPF guidance. As such, the proposal is considered to comply with ALP policy T SP1. There are no specific parking standards for temporary show home/sales uses and therefore it is considered appropriate to accept the proposed provision as reflecting the likely demand.

SUMMARY:

It is considered that the proposal is in accordance with the relevant development plan policies and as such the proposal is recommended for approval 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.

CIL DETAILS

This application is not CIL Liable.

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:

"Location Plan" dwg PLN-1-1119 Rev A;
"Sales Area 01" dwg PLN-1-1116 Rev H;
"Floor Plan and Elevations" dwg 001; and
"Detailed Landscape Proposals Temporary Sales Cabin dwg JBA 19/291-11 Rev A.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1 and HER DM3 of the Arun Local Plan.

3 The sales cabin and associated works hereby permitted shall be removed and the land shall then be developed to reflect the plans approved by Y/49/21/RES (or any subsequent variation of this) on or before the expiration of a period ending two years after the date that the permission has been implemented. The applicant shall notify the Local Planning Authority in writing of the implementation date.

Reasons: The applicant has requested a 2 year permission and in order not to conflict with the approved plans and details for this strategic residential allocation in accordance with policies D DM1 and H SP1 of the Arun Local Plan.

4 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.

5 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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.