

Recommendation Report for Planning Permission

REF NO: Y/17/20/PL

LOCATION: Land north of Yapton C of E Primary
North End Road
Yapton
BN8 0DU

PROPOSAL: Construction of a new access to serve residential development This application may affect a Public Right of Way.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The access is located around 20m north of the existing (which is to be stopped up) and takes the form of a simple T-junction arrangement with a 5.5m wide carriageway, 2.0m wide footway, pedestrian dropped kerb crossing with tactile paving and 8.0m radii.
SITE AREA	0.04 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the access works.
BOUNDARY TREATMENT	The boundaries are a mix of 1m high post & wire fencing, predominantly field maple (Acer Campestre) hedging and small trees.
SITE CHARACTERISTICS	The site is part of a large grassed field currently used for the grazing of horses and which is relatively featureless save for a small temporary timber horse shelter.
CHARACTER OF LOCALITY	The wider site (large grassed field) lies on the edge of the settlement of Yapton. There is a primary school to the south, North End Road to the east with a part business park, part 10 dwelling new build residential development beyond. There are horse paddocks and a couple of dwellings which are rural in character to the north and further agricultural (arable) fields to the west. The site forms part of land with outline permission for 38 dwellings (Y/88/18/OUT) and there are further outline permissions for residential development on land to the north and south. The village of Yapton is semi-rural in character, but benefits from two GP surgeries, a pharmacy, two churches, a village hall and playing fields, the primary school and a small selection of shops (including post office and a Co-Op convenience store). Barnham railway station is located 2 miles to the west (as the crow flies). Yapton is served by a regular bus service.

RELEVANT SITE HISTORY

Y/88/18/OUT	Outline application with some matters reserved for the erection of 38 No. dwellings. This application affects a Public Right of Way.	App Cond with S106 26-11-19
Y/44/17/OUT	Outline Planning Application for 70 No. residential dwellings including 30% affordable, public open space & associated landscaping. All matters to be reserved apart from Access . This application is a Departure from the Development plan. This application affects the character & appearance of Main Road/Church Road Yapton Conservation Area & the setting of Listed Buildings	App Cond with S106 14-12-18
Y/93/14/OUT	Outline application for the erection of 38 dwellings to comprise 6 No. 4-bed houses, 20 No. 3-bed houses, 10 no. 2-bed houses and 2 no. 1-bed houses each with a garage and parking space, together with the means of access off North End Road	App Cond with S106 05-08-15

The site forms part of a site that has the benefit of outline planning permission for 38 dwellings as approved in November 2019 (Y/88/18/OUT) and which followed Y/93/14/OUT. The access will serve an adjacent site (Land at Stakers Farm) which benefits from an outline permission for 70 dwellings granted in December 2018 (Y/44/17/OUT).

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Yapton Parish Council

Yapton Parish Council state no objection provided that any impact on the Public Right of Way (PROW) is rectified via appropriate re-routing of the PROW where required.

COMMENTS ON REPRESENTATIONS RECEIVED:

PROW 326 will enter the site at the proposed access and run along the proposed pavement on the southern side of the new access road. This is the same as previous applications.

CONSULTATIONS

Ecology Advisor

WSCC Strategic Planning

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - No objection. Initially requested footway to link into the Clays Farm site but it has been accepted that the access has already been approved and that there will be a link into this site by way of a PROW therefore it is not reasonable to insist on a footway provision. Initially requested a Road Safety Audit but do not insist on this as the access has already been approved. Request the application be conditioned so the access is implemented as per the version of the plan that has gained S.278 approval and that a condition is applied to ensure that the visibility splays shown on the drawing are retained.

COUNCIL's ECOLOGIST - No objection. Recommend mitigation measures/enhancements for wildlife.

ADC TREE OFFICER - No response.

COMMENTS ON CONSULTATION RESPONSES:

WSCC HIGHWAYS - A visibility splay condition has subsequently been agreed by all parties.

COUNCIL's ECOLOGIST - Some of the requests are appropriate for an access and these are included as conditions. The other requirements have already been considered through the outline permission.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
Flood Zone 1;
Lidsey Wastewater Treatment Catchment Area; and
Special Control of Adverts.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
ENVDM5	ENV DM5 Development and biodiversity
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP1A	SD SP1a Strategic Approach
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development

[Yapton neighbourhood plan 2014 Policy BB1](#)

Built-up Area Boundary

Yapton neighbourhood plan 2014 Policy SA1

Land north of Yapton CE Primary School

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 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 within the Yapton Neighbourhood Development Plan have been considered in the preparation of this report.

It should be noted that section 38 (5) of the Planning and Compulsory Purchase Act 2004, states that: "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document". Therefore, any conflict between the Yapton Neighbourhood Development Plan and the Arun Local Plan 2011-31, should be resolved in favour of the latter.

Yapton Parish Council are currently working on a review of their Neighbourhood Plan, but they have not yet reached the Regulation 18 stage in this process.

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 complies with relevant Development Plan policies in that the site lies within the built up area boundary and the access arrangements will not result in any adverse impact upon highway safety.

OTHER MATERIAL CONSIDERATIONS

It is material that the access arrangements are the same as the three outline permissions mentioned in the planning history section of which Y/44/17/OUT and Y/88/18/OUT are capable of being implemented (subject to the approval of Reserved Matters).

CONCLUSIONS

BACKGROUND, PRINCIPLE & HIGHWAY SAFETY:

Access arrangements have been approved by Y/44/17/OUT and Y/88/18/OUT. This application has been submitted because pre-commencement conditions on those permissions prevent early implementation of the access.

The applicant considers this proposal will deliver the access in a more timely fashion and that this will provide a number of benefits for both the applicant, the adjacent school and the wider community:

- Allowing for the construction of the access to take place during the school holidays to minimise any impact on school pick up and drop off times;
- Providing parking and turning facilities for trades and deliveries on-site to prevent large vehicles and staff parking on North End Road and disrupting traffic;
- Confirmation as to where plant will be kept on site and where it will be unloaded and loaded during the construction of the dwellings - i.e. a dedicated construction access and compound will be in place in advance of the dwelling construction; and
- Provision of off-road wheel washing facilities to mitigate any impact of construction upon the public highway.

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."

WSCC Highways previously raised no objections to the access and maintain this view. The access has now been through the S278 approval process. It is not considered that anything has changed on the ground or in policy terms to justify taking a different decision or to require any additional highway improvements. It is therefore considered that the proposed access remains in accordance with the relevant development plan policies and in respect with the guidance with the NPPF on highway safety.

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 Council's Ecologist assessed the application and has no objections but recommends a set of measures to protect reptiles and mammals during construction. These measures will be secured by condition and 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 will be completed and left as the adjoining sites subject of Y/88/18/OUT and Y/44/17/OUT have been secured by a developer who is finalising a reserved matters application submission. It is accepted that creating the access separately will have benefits to the local environment and the community.

SUMMARY:

The creation 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:

Dwg 19052-BSL-ZZ-XX-DR-A-2010-PL Rev B "Location Plan"
Dwg 19052-BSL-ZZ-XX-DR-A-2011-PL Rev B "Block Plan";
YAP-ENG-04-4.9 Rev A (29/01/20) "Construction Management Plan"; and
Dwg YAP-S278-01 Rev J "S278 General Arrangement and Construction Makeup.

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 No development (including vegetation/ground clearance) of the site from 31 January 2021 onwards shall take place unless and until a walkover badger survey has been undertaken a month before the works start in order to ensure that badgers are not using the application site.

If a badger sett is found on the application site, then the applicants shall provide a mitigation strategy to the Local Planning Authority for approval in writing in consultation with Natural England.

Reason: To safeguard resident badgers in accordance with Policy ENV DM5 of the Arun Local Plan and the NPPF. As the existing badger survey is valid for 1 year from January 2020, the condition only applies after January 31st 2021. It is considered necessary for this to be a pre-commencement condition because the commencement of development could result in harm to any badgers living within the site area.

- 4 The visibility splays of 2.4m by 76m to the north and 2.4m by 67m to the south 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.

- 5 Clearance of the site should only be conducted during the period of the year that reptiles are active and any vegetation to be removed shall be cut down to 10cm prior to any works taking place. Any dead wood, or rubble piles should be dismantled by hand and relocated elsewhere on the site.

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

- 6 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. Furthermore, no impenetrable fencing shall be used on the site in order to ensure that animals are still able to move through the site development and not become trapped.

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

- 7 No construction activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours (Saturday) with no works taking place on Sunday or Bank Holidays.

Reason: To protect the amenities of nearby residents in accordance with Arun Local Plan policies QE SP

- 8 In the event that contamination is found at any time during the carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All works must stop immediately and an investigation and risk assessment must be undertaken in accordance with the requirements of the local authority contaminated land officer. Where remediation is necessary, remediation scheme must be prepared in accordance with the local authority contaminated land Officer guidance and which is subject to approval in writing of the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with policy QE DM4 of the Arun Local Plan.

- 9 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.

- 10 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.
- 11 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.
- 12 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.
- 13 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.