

Recommendation Report for Planning Permission

REF NO: Y/24/20/PL

LOCATION: Fresh Acres Nursery
Yapton Lane
Walberton
BN18 0AS

PROPOSAL: Change of use from Horticultural to storage of containers, caravans & garden equipment, erection of green palisade fencing to front of site behind the existing hedgerow, increase planting buffer to front & side & 4 No. CCTV cameras.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use from Horticultural to storage of container units, caravans & garden equipment, erection of 2.4m high green palisade fencing to front behind the existing hedgerow, increase planting buffer to front & side & 4 No. CCTV cameras. Twelve parking spaces are available at the site entrance and between units on the eastern boundary.
SITE AREA	0.53 hectares.
TOPOGRAPHY	Slopes upward slightly to the rear; the site is on higher ground than the road.
TREES	None affected by the development.
BOUNDARY TREATMENT	Mature hedging along Yapton Lane, 1m high mesh fencing to north side with a dense tree coverage approximately 6m high.
SITE CHARACTERISTICS	Part of Fresh Acres nursery and it once housed a greenhouse taken out of production 18 years ago and used only for storage of plants. Part of the Fresh Acres site has been diversified with a garage workshop at the front. Access is directly off Yapton Lane which is screened by mature hedging.
CHARACTER OF LOCALITY	Agricultural site on the west side off Yapton Lane situated northern from the rail crossing and T-junction with Lake Lane with residential dwelling to the south, Southdown Cottage and Field Cottage to the north and Arable agricultural fields to the east. The B2132 Yapton Lane is the main route for horticultural lorries between Lake Lane and the A27.

RELEVANT SITE HISTORY

Y/41/09/	Use of building for repair, service and M.O.T of vehicles.	ApproveConditionally 02-10-09
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Y/9/06/	Change from packing shed to light industrial/storage	ApproveConditionally 07-06-06
Y/43/01/	Renewal of unimplemented permission Y/27/99 for change of use for the repair and supply of agricultural, horticultural, garden and estate machinery	ApproveConditionally 03-10-01
Y/27/99/	Change of use for the repair & supply of agricultural, horticultural, garden and estate machinery.	ApproveConditionally 27-09-99

Noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Yapton Parish Council

No objection.

One letter of objections:

- Access will pass directly adjacent to residential property as access is shared; concerned about potential for increased noise/light pollution.
- Access hours must be restricted and to be limited access to 5 days or the working week.

COMMENTS ON REPRESENTATIONS RECEIVED:

The operating time will be restricted by the condition.

With regards to the potential of light pollution; Environmental Officer has been satisfied with submitted lighting scheme of the proposal site and hasn't raised any objection.

CONSULTATIONS

Southern Water Planning

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Parks and Landscapes

Environmental Health

Ecology Advisor

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS: No objections subject to condition.

ENGINEERS: Due to the scale/type of application we have no conditions to request. Any alterations to surface water drainage must be designed/constructed in accordance with building regulations.

SOUTHERN WATER: No objection subject to informative.

ADC ENVIRONMENTAL HEALTH: No objection subject to a condition regarding operating time and potentially contaminated land.

COUNCILS ECOLOGIST: No objection subject to informatives.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Outside Built-Up Area
Class B Road
Lidsey Treatment Catchment
Area of Specific Control (Adverts)

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
EMPDM1	EMP DM1 Employment Land: Development Management
ENVDM5	ENV DM5 Development and biodiversity
HORDM1	HOR DM1 Horticulture
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water

Yapton neighbourhood plan 2014 Policy BB1

Yapton neighbourhood plan 2014 Policy E3

Yapton neighbourhood plan 2014 Policy E4

Built-up Area Boundary

Protection of natural habitats

Minimising the environmental impact of development

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 policies of the Yapton Neighbourhood Development Plan have been taken into account in determining this application: E3, E4 and BB1.

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 policy C SP1 of the Arun Local Plan in that the proposal is in accordance with the relevant parts of policies EMP DM1, HOR DM1 and QE DM4 which refers to development outside the built up area boundary in that it would use previously developed land and the remediation of contaminated land is brought back into use and proposed works include full details of new landscaping and screening.

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 outside the built up area boundary. Local Plan Policy C SP1 states development in the countryside is generally unacceptable unless it falls into a certain category or is otherwise in accordance with a Local Plan policy which refers to a specific use or type of development.

Policy C SP1 of the Local Plan in criterion f. states development in the countryside will be permitted where it is in accordance with other policies in the Plan which refer to specific use or type of development. The proposal would be acceptable in respect of Arun Local Plan policy C SP1 in that other policies can be considered (such as EMP DM1, HOR DM1 and QE DM4).

Yapton Neighbourhood Development Plan (YNDP) policy BB1 states development proposals outside the built-up area boundary will not be permitted unless it falls into a certain category; the proposed development would not accord with any.

The site forms a part of a horticultural site and it has already been diversified; under Y/9/06 consent was granted for change of use from agricultural to B1/B8 which was considered an acceptable use in the Countryside. Y/41/09/ was for the use of site as a MOT service and repairs (Sui Generis). The proposal doesn't consist of physical development which would have a long lasting impact on the character of the

countryside. It represents re-use of a horticultural land.

The National Planning Policy Framework (NPPF) supports economic development outside of the built up area. Paragraph 83 of the NPPF states Planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings and paragraph 84 of the NPPF stresses that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

POLICY EMP DM1:

Policy EMP DM1 of the Local Plan in part 6 deals with economic growth outside the Built-up Area Boundary and stresses that planning permission will be granted on sites outside the Built-up area, subject to certain matters being adequately demonstrated.

The site is outside of the wider settlement area of Yapton and bordering Walberton Parish. There are bus stops on Yapton Lane which served Walberton Villagae. The site is in cycling distance to Yapton and Walberton Village. The site is currently under-used. The change of use would comprise a form of rural diversification and will help to maintain existing employment.

Policy EMP DM1 of the Local Plan requires development is of (c) a high standard of design, layout & landscaping appropriate to the context; and (f) a sympathetic relationship to the surrounding areas that shows consideration of the landscape.

The proposal does not consist of built development other than palisade fencing to the front of the site behind the existing hedgerow and at the rear of the site to separate the site from the rest of the nursery. It is not considered the reuse of the site for storage would be out of character with the site or the adjoining agricultural land. Therefore It is considered the proposal accords with the relevant parts of policy EMP DM1 of the Arun Local Plan.

Policy HOR DM1:

Policy HOR DM1 of the Arun Local Plan in part 3. (criteria b. and c.) states 'redevelopment of under-used, redundant or derelict glasshouses, polytunnels or pack houses will be supported provided that:

- b. The land is remediated from any contaminated material(s) and land is used for the direct diversification of horticulture or other productive green environment or is a countryside-based enterprise activity which support rural economy; and
- c. All proposed works include full details of new landscaping, screening and of any trees or vegetation or structures to be retained on the site.

The site has not been in use for a certain period of time and submitted plans show full details of new landscaping and screening. With regards to contaminated land, a condition will be attached to the decision. Therefore the proposal accords with relevant parts of the Arun Local Plan's policy HOR DM1.

Policy QE DM4 of the Arun Local Plan assures the Council will permit the use of previously developed land and the remediation of contaminated land is brought back into use, subject to the requirements which are included within condition mentioned above.

As such the proposal accords with the requirements of policy QE DM4 of the Arun Local Plan.

HIGHWAY SAFETY & VEHICLE PARKING:

Arun Local Plan policy T SP1 requires that new development allow for the safe movement of pedestrians and vehicles, giving priority to pedestrians. Policy EMP DM1 as set out above also requires there to be off-street parking. Regard should be had to para 109 of the NPPF.

Local residents are concerned the use will increase traffic entering the site via shared access and the noise related to it. A condition restricting operational hours would be reasonable solution given that it is already a commercial site and the potential vehicle movements as part of the current operations of the rest of the site.

WSCC do not raise overriding highway safety concerns to the principle of the change of use of the site. It is considered the proposal accords with policy T SP1 of the Arun Local Plan and NPPF guidance.

RESIDENTIAL AMENITY:

Policy EMP DM1 of the Local Plan requires schemes display a satisfactory relationship with neighbouring uses to protect residential amenity. Local Plan policy D DM1 indicates development will be permitted if it takes into account impact on adjoining occupiers, land, use or property. Arun Local Plan policies QE DM1, QE DM2 and QE DM3 relate to noise, light and air pollution.

The development is for a change of use of former horticultural land. Horticulture can be the source of noise which can impact those living nearby with the range of activities and source of sounds. Therefore it is not considered that the proposal would result in a new noise generating development.

In light of the nearby residential properties the hours of use of site will be restricted restricted and secured by imposed condition.

Environmental Health are the technical experts on pollution control including noise, lighting and odours. They have assessed the application and raised no objection subject to conditions. On this basis the proposal will be in accordance with the policies set out above.

IMPACT ON WILDLIFE:

Policy EMP DM1 part f. requires proposals seek opportunities to deliver on-site habitats and protect key species. Policy ENV DM5 of the Local Plan requires natural habitats be retained or incorporated into schemes.

Whilst the site is previously developed and contains large areas of hardstanding, the area to the front has been left to vegetate. The Councils ecologist has raised no objection. Their comments were that the impact on any species was acceptable provided mitigation measures are undertaken, that surrounding trees are retained & protected, that lighting includes measures to protect bats. It is considered that the proposal accords with the policies above.

CONCLUSIONS:

Although the site is in the countryside where development in principle is unacceptable, the Arun Local Plan allows development in the countryside where in accordance with other policies. It has been shown that the proposal is in accordance with the policies EMP DM1, HOR DM1 and QE DM4 of the Local Plan and consequently in a general accord with policy C SP1.

The development conflicts with policy BB1 of the Yapton Neighbourhood Development Plan, however it is considered that this conflict is outweighed by compliance with the Local Plan policies which have greater weight as they were adopted most recently, with the support of the NPPF and on the basis that

the site is previously developed land historically used as part of a horticultural site for storage uses. The impacts can be mitigated through conditions to such an extent as to resolve potential amenity issues. It is recommended the application be approved subject to 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

CIL not 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:

Dwg No	00.01	Rev A	Location Plan
Dwg No	02.01		Site Plan
Dwg No	02.02		Plans & Elevations
Dwg No	02.03		Indicative Street Elevations

Reason: For the avoidance of doubt and in the interests of amenity and the environment in

accordance with policy D DM1 of the Arun Local Plan.

- 3 The use of the site shall be restricted to the hours of 8am to 6pm Mondays to Fridays, 9am to 5pm on Saturdays, and 10am to 4pm on Sundays and Public Holidays.

Reason: To protect the amenity of nearby residential occupiers in accordance with policies D DM1, QE DM1 & QE DM3 of the Arun Local Plan and in line with the World Health Organisation definition of night time.

- 4 No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with policy T SP1 of the Arun Local Plan.

- 5 Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A 'Preliminary Risk Assessment' which has identified: all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.

2. A 'Site Investigation Scheme', based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. Based on the 'Site Investigation Scheme' and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A 'Verification Report' providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Note: Any changes to these components, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policy QE DM4 of the Arun Local Plan 2011 - 2031.

- 6 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.

- 7 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.
- 8 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.
- 9 A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.
- 10 INFORMATIVE: Any lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.