

Recommendation Report for Planning Permission

REF NO: Y/31/21/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 & is in CIL Zone 3 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Erection of a temporary sales cabin with 4 temporary 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 advert application, it is shown to have grey print graphics covering the exterior. The cabin is proposed to be open 9am to 6pm every day. It is stated to be temporary until such time as the permanent show homes are built (with the land being restored thereafter) but it is unclear as to how long it would be in place for and from when. The advertisement consent application states the adverts will be required for a 2 year period commencing June 2021 but it is material that reserved matters permission has not been granted. The application includes a landscaping scheme which includes trees, hedges, shrub & grassland planting, concrete slab paving and 1.8m high timber fencing at the rear sides of the cabin.
SITE AREA	293 sq. metres.
TOPOGRAPHY	Predominantly flat but the land rises slightly up from Main Road.
TREES	Some trees in the hedge line at the rear of the site but unaffected by the proposal.
BOUNDARY TREATMENT	Hedging between the site and the adjacent land to the north west.
SITE CHARACTERISTICS	The site is part of an existing overgrown verge area located on the corner of Drove Lane and Main Road/Yapton Road.
CHARACTER OF LOCALITY	Predominantly rural albeit the site to the south has outline permission for up to 300 homes. The rectangular field to the south east (known locally as the Sheep Field) is in the Yapton Main Road Conservation Area. There are two Grade II listed

residential properties on the opposite side of Main Road to the east.

RELEVANT SITE HISTORY

Y/32/21/A	Various non illuminated advertisements.	
Y/127/20/PL	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).	ApproveConditionally 01-02-21
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, 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 permission for up to 300 homes approved in May 2019 (Y/92/17/OUT). Reserved Matters approval has not been granted but a standalone application for the access improvement works to Drove Lane and the junction with Main Road has been granted (Y/127/20/PL). A separate advertisement consent has been submitted (Y/32/21/A).

REPRESENTATIONS

Yapton Parish Council object for the following reasons:

- Location is out of keeping with the open street scene / cabin should be located within the main site;

- Cabin likely to be in place for 3+ years;
- Highway safety concerns due to conflict with access to the Scout Hut/nursery; and
- Consider that advertising only in this location is sufficient.

In addition, there are objections from 3 local residents raising the following concerns:

- Prominent location in the streetscene & harm to character;
- Harm to the Conservation Area and other nearby heritage assets;
- Will prevent future excavation & reinstatement of the old canal bridge remains;
- The cabin could be in place for years;
- May deter walkers, cyclists & horse riders from using nearby paths; and
- The adverts will distract drivers.

COMMENTS ON REPRESENTATIONS RECEIVED:

The majority of the concerns of the Parish and the objectors are discussed in the conclusions. Concerns relating to advertising are not relevant to this application. It is not considered the proposal will have any impact on future proposals in respect of the canal as it is only temporary and the line of the canal is 27m from the parking spaces / 41m from the cabin itself. It is clear the proposal will not restrict access to any foot or cycle paths.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC CONSERVATION OFFICER - The proposal will result in less than substantial harm to the setting of the nearby heritage assets and it is necessary in accordance with para 196 of the NPPF to consider the harm against the public benefits that the development may achieve. Comments as follows:

- the sales cabin is a fairly simple structure of standard design with glazing on the principal elevation and decorative panels on the remaining;
- the cabin is to be located in an area previously shown to be left open & landscaped;
- the location would be clearly visible from Main Road along with the Conservation Area and other heritage assets;
- Landscaping could help to soften its impact but only if it is implemented as mature planting;
- It is unclear as to how long the cabin will be in situ; and
- Numerous advertisements.

COUNCIL's ECOLOGIST - No objection subject to conditions to secure a precautionary approach re reptiles, wildflower meadow planting, grassland areas managed to benefit reptiles, log piles for reptiles & small mammals, a bat friendly lighting scheme, retention & enhancement of hedges, a bat brick provided in the cabin, bird box installed on the site and that any vegetation clearance/works to trees will need to be undertaken outside the bird nesting season.

No responses from WSCC Highways, ADC Drainage Engineers or the ADC Tree Officer.

COMMENTS ON CONSULTATION RESPONSES:

The protection of birds nests is covered by separate legislation therefore it is not appropriate to impose this as a condition. It is also not considered possible to provide a bat brick in a pre-fabricated building.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
 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;
 Flood Zone 1; and
 Part CIL Zones 1, 2 & 3.

DEVELOPMENT PLAN POLICIES

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

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment
HWBSP1	HWB SP1 Health and Wellbeing
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

Yapton neighbourhood plan 2014 Policy BB1	Built-up Area Boundary
Yapton neighbourhood plan 2014 Policy E3	Protection of natural habitats
Yapton neighbourhood plan 2014 Policy E4	Minimising the environmental impact of development
Yapton neighbourhood plan 2014 Policy E5	Enhancement of biodiversity
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:

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 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 Development Plan (YNDP) have been considered within this report. Yapton are currently working on a revised YNDP and have recently completed a regulation 14 consultation. However, it is considered that the emerging Plan can be attributed only low weight at this time.

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 conflict with relevant development plan policies in that it will introduce development in a presently open and prominent position in the streetscene to the detriment of local character & landscape and result in harm to nearby heritage assets including the Conservation Area and Listed Buildings.

The proposal affects the setting of nearby Grade II Listed buildings and 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 preserve or enhance the setting of the nearby Listed Buildings.

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 outside the built up area boundary and is in the countryside. The site is in the whole site area approved by Y/92/17/OUT for a development of up to 300 houses but the parameter plan referred to in condition 3 of Y/92/17/OUT and the Design Code approved by Y/41/21/DOC showed this area as staying open/landscaped. Therefore it is not considered that Y/92/17/OUT represents any form of justification for development in this countryside part of the site, temporary or otherwise.

As per Arun Local Plan (ALP) policy C SP1, development is generally unacceptable in the countryside 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. It is not considered that the proposal meets any of these exceptions (noting that the site lies outside of the strategic allocation ref SD7) and therefore is inappropriate countryside development. However, this does not automatically result in refusal as there must also be some harm with the proposal.

Yapton Neighbourhood Plan (YNDP) policy BB1 states that development outside of the built up area boundary will not be supported unless they are compliant with 4 criteria. None of these criteria refer to the type of development proposed and therefore, the proposal is also in conflict with the YNDP.

HERITAGE:

The site is adjacent to the edge of the Main Road Conservation Area and in sight of two Grade II Listed Buildings. Drove Lane has previously been acknowledged as being part of a former historic driving route and although it provides vehicular access & features a tarmac surface, it is still 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.

Policy HER DM3 lists criteria for proposals affecting the setting of a Conservation Area and states that development will only be permitted provided that new buildings/structures acknowledge the character of their special environment in their layout, form, scale, detailing, use of materials, enclosure; and development retains important open spaces and other elements of the area's established pattern of development, character and historic value. It is also important to preserve important views into/out of the Conservation Area. In addition, 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).

It is necessary to consider policy guidance in the National Planning Policy Framework (NPPF) which sets out several steps 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. The applicant has not provided any heritage assessment.

Para 190 then requires Local Planning Authorities identify and assess the particular significance of the heritage asset that may be affected by a proposal. The Local Planning Authority must then consider the level of harm associated with the proposal and decide whether there is any harm and if so, whether this

is '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).

The Conservation Officer assessed the proposal and comments are set out in full on the Council's website and summarised above. The Conservation Officer considers the proposal will affect the way in which the nearby heritage assets are experienced during the life of the cabin. The proposal will result in 'less than substantial harm' to the setting of the Conservation Area and nearby Grade II Listed Buildings and so it is necessary in accordance with para 196 of the NPPF to consider the harm against the public benefits that the development may achieve.

It is not appropriate to reconsider the public benefits of the proposed (up to 300 dwelling) residential scheme as the cabin is not required for the development of the site. Its presence may help with sales but as ADC can only demonstrate a 3.3-year Housing Land Supply, there is clear demand in the district for new housing regardless. Furthermore having the temporary sales cabin in the construction site with just a few adverts on the frontage (subject to separate consent) would ensure that potential customers are aware of the site and where to go to get information.

The proposal will generate employment in the form of 1.5 FTE staff but it is not clear as to whether this means actual new jobs or whether these are existing trained staff being redeployed from elsewhere. It is not considered there are any demonstrable public benefits to the sales cabin and that the only benefits will be private in nature. As such, the proposal does not comply with the NPPF guidance and the 'less than substantial harm' is unresolved.

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. There will be no loss of any undesignated assets and no direct harm either. It is not considered therefore that any refusal on these grounds can be sustained.

The proposal is in conflict with the relevant development plan policies, with the NPPF guidance and with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is necessary to consider any other material considerations. The cabin is only to be a temporary installation however, there is no information given as to its likely lifespan. The separate advertisement consent states that the adverts are required from 08 June 2021 for a period of 2 years however this would seem to be premature with no reserved matters approval yet in place, a public inquiry type appeal submitted following the refusal of Y/78/20/RES and a resubmission application Y/49/21/RES not expiring until 19 July 2021. As such, if approved, the cabin could be in place for some time before development actually commences thus increasing its lifespan and the harm to the heritage assets. Therefore, although its temporary nature is material it is not considered to override the policy conflicts.

CHARACTER:

ALP policy D DM1 requires the Council seek to make the best possible use of land by reflecting or improving on the character of the site/surrounding area. It requires the Council consider scale, massing, aspect, siting, layout, density, building materials, landscaping and design features. The policy requires the scale of development keep in the general confines of the overall character of a locality. ALP policy D SP1 "Design" requires development to make efficient use of land and reflect local character. 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.

The site is presently open and prominently located in the streetscene with unhindered views of it in both directions along Main Road/Yapton Road. The cabin is of a fairly sensitive form being only single storey and with a flat roof. It is not in character in design terms with existing surrounding built form and it is not considered that there has been any attempt to design the building to suit the location or to properly consider any other less obtrusive locations. Its introduction into this site will result in harm to the local landscape and the streetscene particularly due to the prominent open nature of the site.

The proposal for landscaping is acknowledged but this will take time to mature (by which time, the cabin will likely no longer be needed) and no significant planting is proposed to the frontage and there is only so much that can be achieved to screen the cabin from the road due to the need to ensure visibility splays. It is also noted that the proposal includes a timber fence to the rear sides to screen the rear of the unit which, as per the separate advert consent application, shows no graphics. This further urbanising feature could be avoided if the rear was better designed.

The proposal will conflict with the relevant development plan policies and that as per the assessment of material considerations in the heritage section above, the temporary nature does not override the policy conflicts.

HIGHWAY SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. Proposals will be supported where they explain 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.

There are objections on the grounds of highway safety due to conflict between visitor parking spaces and both the access off Drove Lane to the Scout Hut/Nursery & the Drove Lane/Main Road junction.

WSCC Highways have not responded and there is no expert highway evidence to assist in making a determination. It is clear that the proposal is temporary in nature and there will limited movements to/from the site with only 4 parking spaces shown. The landscaping drawing shows that the land either side of the parking spaces will be kept open with only very low level planting such that there will be no hindrance to visibility for drivers exiting the spaces.

It is not considered that the parking spaces 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 (para 109). 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 conflict with the development plan policies in respect of harm to character/appearance and the nearby heritage assets. The temporary nature of the cabin is acknowledged but there is no clear indication of its likely lifespan and as such, the resultant harm could persist in the area for some time before it is no longer needed. It is recommended that permission be refused for the following reason and the applicant consider less obtrusive locations within the main area of the site approved by Y/92/17/OUT.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 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 National Planning Policy Framework.
- 2 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 with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.