

Recommendation Report for Planning Permission

REF NO: Y/86/21/PL

LOCATION: Land East of North End Road and West of
Church Lane Nursery
Yapton
BN18 0GA

PROPOSAL: Variation of condition imposed under Y/18/20/PL relating to Condition No 4 - pre-commencement site meeting with Tree Officer.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for a variation of the wording to condition 4 (pre-commencement site meeting with Council's Tree Officer) imposed on Y/18/20/PL (which approved the construction of 6 residential dwellings). The application seeks to vary the wording of condition 4 from: "Before the site is occupied or any machinery is introduced to the site or demolition work or construction work or alterations to existing ground levels takes place a PRE-COMMENCEMENT Site Meeting is to take place between the Planning Authority's Tree Officer and the Arboricultural Expert representing the site owner(s) or other competent person - at this meeting all protective fencing will be inspected to verify it is 'Fit for Purpose' as required under British Standard 5837:2012 and have been erected and positioned exactly as shown on the Tree Protection Plan, ref. 18063-BT1." To instead state: "Following the cessation of work on site to allow for pre-commencement conditions to be discharged, prior to work recommencing, all tree works to be carried out in accordance with the Tree Report prepared by Eco Urban (Ref. 211378) Report, dated 16/06/2021."
SITE AREA	0.28 Hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	21.4 dph.
TOPOGRAPHY	The site is predominantly flat but is approximately 1.2m higher than North End Road and has a retaining wall to part of this boundary.
TREES	There are/were a number of trees either in or overhanging the site and Y/18/20/PL proposed to remove the majority of these. Most are/were of low quality. The most significant trees to be retained are a linear group of crown-modified hornbeam (G22)

BOUNDARY TREATMENT	on the south boundary and an individual maturing off-site beech (T3). At time of original planning permission (Y/18/20/PL): - Mixed 1.2m timber post & rail fencing, hedging (of varying heights) and trees to southern boundary; - Approximately 2m high green painted metal palisade fence / part of light green metal building to the northern boundary with the Business Park; - No current boundary to the east with the Church Lane Nursery dwelling; and - Currently open save for trees and part low retaining Wall to North End Road.
SITE CHARACTERISTICS	Part former garden land associated with the Church Lane Nursery dwelling and part unused grassland. The site includes/d a track along the northern edge which accesses North End Road with a gate and painted breeze block pillars.
CHARACTER OF LOCALITY	The site borders dwellings to the south & east, and with part business park, part newbuild residential dwellings to the north (including a single storey metal clad building right on the boundary) and with North End Road to the west. The dwelling to the east, "Church Lane Nursery" is a bungalow with no rooms in the roof. The dwellings to the south are a mix of 1 and 2 storey with some first floor bedroom windows overlooking the site. There is a telephone exchange adjacent to the south west corner.

RELEVANT SITE HISTORY		
Y/82/21/DOC	Approval of details reserved by condition imposed under Y/18/20/PL relating to condition 5-Contamination Report.	DOC Approved 09-08-21
Y/82/21/DOC	Approval of details reserved by condition imposed under Y/18/20/PL relating to condition 5-Contamination Report.	DOC Approved 09-08-21
Y/80/21/DOC	Approval of details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 7 - surface water drainage and 8 - maintenance & management of surface water drainage.	DOC Approved 14-07-21
Y/80/21/DOC	Approval of details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 7 - surface water drainage and 8 - maintenance & management of surface water drainage.	DOC Approved 14-07-21

Y/43/21/DOC	Approval of details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 4 - pre-commencement site meeting, 5 - contamination, 7 - surface water drainage and 8 - maintenance & management of surface water drainage.	DOC Refused 18-05-21
Y/43/21/DOC	Approval of details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 4 - pre-commencement site meeting, 5 - contamination, 7 - surface water drainage and 8 - maintenance & management of surface water drainage.	DOC Refused 18-05-21
Y/126/20/DOC	Approval if details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 6 - Construction & Environmental Management Plan, 9 - mitigation method statement re hedgerows, 10 - wildlife enhancement, 11 - landscaping, 12 - materials & finishes, 13 - screen walls & fences, 14 - Part M of Building Regs 2010, 16 - cycle parking, 18 - energy efficiency, 19 - electric vehicle charging and 20 - external lighting	DOC Approved 27-01-21
Y/126/20/DOC	Approval if details reserved by condition imposed under ref Y/18/20/PL relating to Condition Nos 6 - Construction & Environmental Management Plan, 9 - mitigation method statement re hedgerows, 10 - wildlife enhancement, 11 - landscaping, 12 - materials & finishes, 13 - screen walls & fences, 14 - Part M of Building Regs 2010, 16 - cycle parking, 18 - energy efficiency, 19 - electric vehicle charging and 20 - external lighting	DOC Approved 27-01-21
Y/18/20/PL	6 No. residential dwellings & associated infrastructure. This application is a Departure from the Development Plan.	ApproveConditionally 13-05-20
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The site benefits from planning permission (Y/18/20/PL) for the construction of 6 residential units and associated works. Y/126/20/DOC approved the discharge of conditions 6, 9, 10, 11, 12, 13, 14, 16, 18,

19 and 20 imposed by Y/18/20/PL.

Y/43/21/DOC refused the discharge of conditions 4, 5, 7 and 8 imposed by Y/18/20/PL. The refusal to discharge condition 4 was on the basis that development had already commenced and so a pre-commencement site meeting with the Council's Tree Officer could no longer take place.

Y/80/21/DOC approved the discharge of conditions 7 and 8, but Y/82/21/DOC refused the discharge of condition 5 (this remains outstanding to discharge). The current application seeks to vary and discharge condition 4.

REPRESENTATIONS

Yapton Parish Council - no objection.

No other representations have been received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC TREE OFFICER: Support approval of application. Ecourban Ltd. have provided a professional arboricultural report which includes refinements to the tree protection measures to ensure they are 'fit for purpose' and allow for re-commencement of construction works. In addition, the applicant has now instructed an arboricultural consultant to over-see and ensure compliance with the approved tree protection measures moving forward until completion.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusion section of report.

POLICY CONTEXT

Designation applicable to site:

Outside Built Up Area Boundary;
Lidsey Treatment Catchment Area;
Area of Special Control of Adverts;
Flood Zone 1; and
CIL Zone 3.

DEVELOPMENT PLAN POLICIES

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

ENVDM4 ENV DM4 Protection of trees

[Yapton neighbourhood plan 2014 Policy E4](#)

Minimising the environmental impact of development

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 policies contained in the Yapton Neighbourhood Plan (made 2014) and the emerging Yapton Neighbourhood Plan 2 (currently at Reg. stage 14) are relevant in the determination of this application.

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 the changes are not considered to result in a scheme which is substantially different from that which has already been approved and the proposed tree protection measures and mechanism in place for ensuring compliance are considered acceptable and would protect trees and hedges, in accordance with Arun Local Plan (2018) policy ENV DM4, policy E4 of the made Yapton Neighbourhood Plan (2014) and emerging policy E4 of the draft Yapton Neighbourhood Plan 2.

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

INTRODUCTION:

The 2020 permission for the scheme remains extant and has been commenced/implemented. The policies contained in the Arun Local Plan (2018) remain in force now as at the time of the original decision, and although the Yapton Neighbourhood Plan 2 has now reached pre-submission consultation stage Reg 14 since the time of the original decision and thus its policies hold weight, it is not necessary to reconsider the whole application scheme afresh, since it remains extant/has been implemented. It is only necessary to consider any proposed changes under this application.

TREE IMPACTS:

Tree protection/replacement policies -

Arun Local Plan policy ENV DM4 states that: "Development will be permitted where it can be demonstrated that trees protected by a Tree Preservation Order(s) (TPO), identified as Ancient Woodland, in a Conservation Area or contributing to local amenity, will not be damaged or destroyed now and as they reach maturity unless development:

- a. Would result in the removal of one or more trees in the interests of good arboricultural practice. This shall be demonstrated by the developer following the advice of a suitably qualified person which shall be guided by BS 5837 (2012). Details of any advice received having regard to BS 5837 (2012) shall be submitted, in writing, as part of a planning application; or
- b. Would enhance the survival and growth prospects of other protected trees;
- c. The benefits of the proposed development in a particular location outweigh the loss of trees or woodland, especially ancient woodland."

Yapton Neighbourhood Plan (made 2014) policy E4 states that development sites should retain well-established features of the landscape, including mature trees and species-rich hedgerows. New tree planting will be required to mitigate any significant loss.

The emerging policy E4 in the draft Yapton Neighbourhood Plan 2, which now holds greater weight than at the time of the original decision, contains additional text in bold within the policy which strengthens tree protections as follows:

- (a) Development having a negative impact on trees will be discouraged. All development must assess the impact on existing trees.
- (b) When planting new trees and hedges native species should be used.
- (c) Existing roadside hedges, green spaces, trees and shrubs should be retained wherever possible.
- (d) Verges, prolific to many of the Parish estates, should be retained and parking or other resurfacing of these areas denied.
- (e) Nature conservation should be a significant consideration when any new development is proposed to ensure protection and enhancement of the natural environment to soften and enhance the scheme.
- (f) Development proposals must be designed to retain wherever possible, trees and hedgerows of good arboricultural and amenity value. Where trees are lost replacement is encouraged.

Previous tree impacts -

Under the original 2020 application, the LPA concluded the following in respect of tree impacts:

The application proposes to remove a number of small to medium class trees from within the site and to prune a group of class C Beech & Hornbeam. The exception is a class B Ash tree (T14) which is to be felled as it is located where the access road will turn south to reach plots 5 & 6. Whilst the proposal does result in a loss of trees across the site, the Councils Tree Officer does not raise any objections. It is considered that the benefits of the development in providing new homes in a sustainable location to contribute to the Councils HLS shortfall outweighs the loss of the existing trees. Furthermore, the scheme clearly retains the established trees and hedging along the southern boundary. A condition will be imposed to secure details of new landscaping with new trees required at a ratio of 2 to every 1 lost. On this basis, the proposal is in accordance with ALP policy ENV DM4 and YNDP policy E4. A planning condition (4) was applied to this decision requiring a pre-commencement Site Meeting to take place between the Planning Authority's Tree Officer and the Arboricultural Expert representing the site owner(s) or other competent person and at this meeting all protective fencing will be inspected to verify it is 'Fit for Purpose' as required under British Standard 5837:2012 and have been erected and positioned

exactly as shown on the approved Tree Protection Plan.

Current tree impacts -

This current application seeks to vary the wording of this condition 4 to instead approve the tree works/tree protection measures set out in the Tree Report prepared by Eco Urban (Ref. 211378), dated 16/06/2021.

The Council's Tree Officer has provided the following comments:

"I have considered this application by means of a desktop review. Previous consideration from site provides adequate insight to the proposal. The variation of condition 4 is necessary following commencement of construction works prior to satisfying the Local Planning Authority that approved tree protection measures were in place. It was subsequently discovered that those measures were not wholly installed or 'fit for purpose'. The applicants subsequently employed Ecourban Ltd to provide professional arboricultural advice and oversight for the provision of adequate tree protection measures; to both permit re-commencement of construction phase works and until completion. Their written Report dated 16th June 2021 is comprehensive and confirms the above requirements have and are likely to be met. We can be satisfied that the necessary refinements had been made to ensure tree protection measures are 'fit for purpose' and permit re-commencement of construction works. The applicant has instructed an arboricultural consultant to ensure compliance with approved tree protection measures and arrangements are now in place for those to be sustained.

CONCLUSION:

The variation in the wording of condition 4 imposed on the original planning permission would secure appropriate tree protection measures are and continue to be in place to allow for re-commencement and completion of the construction works on site. The proposals would ensure an acceptable impact on trees and hedgerows, in accordance with Arun Local Plan policy ENV DM4, Yapton Neighbourhood Plan (2014) policy E4 and the emerging policy E4 of the draft Yapton Neighbourhood Plan 2.

It is recommended permission be granted in accordance with the following replacement condition and the following informatives:

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 Prior to work recommencing on site, all tree protection measures must be installed and made 'fit for purpose' in strict accordance with the Tree Report prepared by Eco Urban (Ref. 211378), dated 16/06/2021. Thereafter, the tree works undertaken shall be in strict accordance with the details approved in this aforementioned Tree Report. Until completion of the works on site, these tree protection measures and tree works shall be overseen by the appointed arboricultural consultant to ensure compliance with the approved details in the Tree Report.
- 2 **INFORMATIVE:** All of the conditions imposed on Y/18/20/PL shall remain in force with the exception of: - Condition 4 of Y/18/20/PL which is replaced by the new condition 1 above.
- 3 **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.