

PLANNING APPLICATION REPORT

REF NO: BE/143/22/PL

LOCATION: 1 Finch Gardens  
Bersted  
PO22 9EQ

PROPOSAL: Variation of conditions 2, 3 and 4 imposed under BE/74/18/PL relating to plans condition, materials and omission of parking spaces at rear of property. These changes relate to the dwelling now addressed as 1A Finch Gardens.

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	The purpose of this application is to agree revisions to the approved development, namely: <ul style="list-style-type: none"> <li>- To omit the approved parking space that was to be located at the end of the rear garden (accessed from Woodland Rd).</li> <li>- To provide the front first floor elevation with cladding to match the existing rear dormer; and</li> <li>- To erect a 1.8m high fence on the side boundary (with Woodlands Road) to replace the previous wall.</li> </ul>
SITE AREA	0.1 hectares.
TOPOGRAPHY	Predominantly flat but there is a slight slope up from Finch Gardens.
TREES	None affected by the development.
BOUNDARY TREATMENT	Open plan to the front. There was previously a 1.8m high wall to Woodlands Road but according to the applicant, this was unstable/crumbling and so was taken down for safety reasons. The boundary is secured by metal Heras fencing. It is proposed to replace this with a 1.8m high fence.
SITE CHARACTERISTICS	The two-storey end terrace dwelling approved by BE/74/18/PL has been commenced and is almost complete.
CHARACTER OF LOCALITY	Residential area - mix of semi-detached, link detached and terraced two-storey dwellings. Some bungalows on Woodlands Road. Neighbouring properties consist of: <ul style="list-style-type: none"> <li>- 27 Finch Gardens (opposite) - two storey semi-detached dwelling in a matching design to 1 Finch Gardens;</li> <li>- 71 Woodlands Road (to the west) - semi-detached bungalow; and</li> <li>- 88 Woodlands Road (behind the site) - two storey end terrace dwelling with a first floor flank obscure glazed bathroom window facing the site.</li> </ul>

<b>RELEVANT SITE HISTORY</b>
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BE/8/20/NMA	Non-material amendment following grant of reference BE/74/18/PL for various external and internal amendments (1 - 8)	Approve 07-02-20
BE/74/18/PL	Erection of 1 No. attached dwelling	Refused 15-11-18 <b>Appeal: Allowed+Conditions</b> 11-07-19

The dwelling was allowed on appeal in July 2019 (BE/74/18/PL). The application had been refused by the planning committee and one of the refusal reasons referred to the proposed parking/access arrangements and harm to highway safety. The permission was amended by BE/8/20/NMA in February 2020 which allowed the following changes:

- (a) Front door moved to side of house and new porch roof canopy supported on gallows brackets and new path provided.
- (b) Windows on front elevation decreased slightly in width and centred.
- (c) First floor window on side elevation centred.
- (d) First floor window on rear elevation to be made slightly wider.
- (e) Ground floor door and window on rear elevation to be replaced with sliding doors within a wider opening.
- (f) Short side wall to rear projection to be moved away from existing house by approx. 20mm, so that its foundation can be 500mm clear of a public sewer utility access hole.
- (g) The ground floor rear wall has been moved out by 25mm, so that the long side wall of the house works to brick dimensions; and
- (h) Internal layout altered.

In addition, a rear dormer has been added under permitted development rights.

<b>REPRESENTATIONS</b>
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Bersted Parish Council object as the proposal reduces parking to one space contrary to Bersted Neighbourhood Development Plan policy HDQ8 and Arun DC's Parking Standards.

One objection from the owner of 1 Finch Gardens on the grounds that the application concerns her address, and she has not made the application. She requests that this be re-addressed as 1A Finch Gardens. However, states no objection to the proposals.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Parking is discussed in the conclusions.

The applicant was advised that the application should remain addressed as 1 Finch Gardens since that was how the original permission was addressed. The description has been amended to state the changes relate to the dwelling now addressed as 1A Finch Gardens. The applicant relayed this to the owner of 1 Finch Gardens and it is understood that she was happy with this amendment.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - no objection and state:

- The supporting information in the application form state the required WSCC Highways licence was not granted for the proposed dropped kerb to the rear, due to their policy.
- Five car parking spaces were expected to be provided in the original application, with three spaces approved to the frontage, one at the rear and one to be provided on-street.
- The three frontage spaces are retained but the remaining two spaces will need to be accommodated on-street.
- This would not be detrimental to highway safety and key locations in the public highway are subject to enforceable parking restrictions; and
- The revised plan demonstrates that this area is to be reinstated as fenced off curtilage area and the fence does not appear to encroach on land considered as highway.

### COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

## POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary.

Pagham Harbour Zone B

Class D Roads.

Current Flood Zone 1.

The rear garden is indicated to be Flood Zone 3 by 2111; and

CIL Zone 4.

### DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development

[Bersted Neighbourhood Plan 2014 Policy ES1](#) Design of new development

Bersted Neighbourhood Plan 2014 Policy HDQ2 Integration of new housing

Bersted Neighbourhood Plan 2014 Policy HDQ5 Design of new housing development

Bersted Neighbourhood Plan 2014 Policy HDQ8 Car parking

### PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

**SUPPLEMENTARY POLICY GUIDANCE:**

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

**POLICY COMMENTARY**

The Development Plan consists of the Arun Local Plan 2011 - 2031 (ALP), 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. Relevant Bersted Neighbourhood Development Plan (BNDP) policies have been considered in this report.

**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 conflicts with relevant Development Plan policies in that the dwelling is only provided with one parking space whereas BNDP policy HDQ8 requires two per dwelling.

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 material that WSCC Highways refused the applicant's request for a dropped crossing to allow access to the approved second parking space in the rear garden. According to the applicant, this is because WSCC's rules changed so that they never allow two dropped kerbs to one property. WSCC Highways has since advised the local planning authority that:

"As a bit of background, this scenario can occur from time to time. This is because at planning stage we primarily look at it from a safety perspective and as you know we can only refuse if an unacceptable highway safety issue could occur. At the dropped kerb licensing stage, colleagues look at a broader set of issues and at times can object to something that has already got planning permission. This is why we include the informative to inform the applicant that planning permission no way guarantees other post planning consents that they may require."

It is material that the permission has been commenced and is complete save for the front first floor elevation and side boundary treatment. Should this application be refused then whilst the applicant could complete the permission that has been granted, the use of the rear parking space would require a vehicle to drive up/down a kerb. This would be an offence under the Highways Act 1980 and is likely to cause damage to the kerb. The alternative is that they cannot complete the permission that has been granted and occupation of the dwelling without the second parking space would be a breach of the

planning permission rendering them susceptible to enforcement action and potentially leading to a house lying empty.

## **CONCLUSIONS**

### **PRINCIPLE:**

The site lies in the built-up area boundary and benefits from an extant permission which has been lawfully commenced. This application seeks permission to reduce the on-street parking provision by one, to amend the first-floor front materials and erect a fence to replace a previous wall. Due to the nature of the changes, it is only necessary to re-assess the application in terms of impact on the character & appearance of the area/the streetscene and on the local highway network. This report will determine whether the changes now sought cause additional harm compared to the approved scheme, and if harm is considered to arise, is it sufficient to warrant refusal.

### **DESIGN & CHARACTER:**

ALP policy D DM1 requires development to reflect or improve on the character of the site/surrounding area. D DM4 sets out criteria for which applications relating to alterations of existing buildings must be assessed against. These seek to minimise the impact of the proposal on the character of the host dwelling (in this case, no. 1 Finch Gardens), its neighbours, and the locality. In particular, extensions should visually integrate with the host building in terms of materials. The Arun Design Guide (ADG) is a material consideration and section J advises that designs should respond to the frontages of existing buildings in their immediate surroundings and exemplars in the wider context. BNDP policies ES1, HDQ2 and HDQ5 seek to ensure that new development is appropriately designed, reflects local character and are visually integrated with their surroundings.

It was initially envisaged that the development would ensure that the front elevation matched with the front of the adjoining dwelling, 1 Finch Gardens. It is understood that the applicant has been unable to source matching hanging tiles. The development dates back to the 1970's and so the same material may no longer be available. Instead the applicant wishes to place cladding on the front elevation (first floor). The cladding will be black fibre cement weatherboarding to match that on the rear dormer.

Whilst this will not match with the dwelling, it is material that there is a brick column at ground floor that visually separates the two houses, and this ensures that the materials on each do not directly adjoin. There is another example of such cladding used in the local area at 10 & 12 Woodlands Road to the south. There is a mix of first floor front materials in the streetscene with white painted plastic and two different colours of hanging tiles. The change to cladding will not result in any significant harm to the appearance of the building or the streetscene in which it sits.

In respect of the 1.8m high fence to the side, whilst the immediate Woodlands Road area is defined by brick walls, there are other examples of fencing in the local area. These include large sections of the northern side of Rowan Way only a short distance to the North and the side boundary of 18 Woodlands Road to the south (which fronts Woodlands Road). Whilst the change from brick wall to fencing will be in contrast to the character of the immediate surroundings, this will not generate significant harm to the locality.

Whilst there is some harm associated with the changes, this is not significant or adverse and there is no clear conflict with the relevant development plan policies.

### **PARKING PROVISION:**

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network and provide appropriate levels of parking. The council's Parking Standards SPD requires 2 parking spaces for a property of this size, and this is the same as that required by BNDP policy HDQ8. This reflects the approved situation with one space on the frontage and a second at the rear of the garden. As noted above, it is no longer possible to secure highway access to the second parking space at the rear and as such the property would only have one off-street space. This represents a conflict with policy HDQ8.

The side boundary of the site fronts Woodlands Road and the parking of a car in the short section of frontage between the Finch Gardens junction and the next property to the north (88 Woodlands Road) would not create conflict with existing residents (i.e., the conflict that is created when a car is parked outside someone else's house). WSCC Highways confirmed that on-street parking in this area would not adversely affect the safety of the local highway. the road is wide enough to allow cars to be parked solely on one side of the carriageway and not cause any obstruction.

The previous Inspector raised no concerns with the parking of vehicles on the road stating "The Council have raised concerns regarding limited on street parking, although this position is not substantiated. On my site visit I observed a number of on street spaces available in the short cul-de-sac of Finch Gardens." Despite the policy conflict, a refusal on the grounds of inadequate parking provision would not be sustainable and could result in a house lying empty.

#### CONDITIONS:

It has been established by the Supreme Court decision in Lambeth LBC v SSHCLG (2019) that whilst the conditions in the original permission cannot be taken to be implied in the new permission if they are omitted from it, they nevertheless continue to have effect (except to the extent that the section 73 permission has varied them). Nevertheless, it is still good practice, to repeat in the section 73 permission all the unamended conditions from the earlier permission, as well as those that have been amended.

The development has been implemented and so condition 1 (time limits) of BE/74/18/PL is not relevant. Conditions 2, 3, 4 & 5 are re-imposed (now numbered 1-4) but with alterations to 1-3 to reflect the changes approved by this application. No new conditions are proposed and it would not be reasonable to impose new requirements (such as electric vehicle charge points or renewable energy) on the applicant.

#### SUMMARY:

The scheme will not result in any demonstrable harm to local character or highway safety. As per the NPPF, para 11(c), development proposals that accord with an up-to-date development plan should be approved without delay. It is recommended that this section 73 planning application be granted subject to the following altered conditions.

<b>HUMAN RIGHTS ACT</b>
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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

As there is no increase in floorspace, the proposal does not generate any CIL requirements.

#### RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby approved shall be carried out in accordance with the following approved plans:

- Block Plan of the Site (submitted 01/12/22).
- Site Plan (submitted 05/12/22).
- 0034-05 NMA Proposed Elevations (submitted (05/12/22); and
- 0034-04 Rev A NMA Proposed Plans.

Reason: As previously imposed by the appeal decision concerning application BE/74/18/PL (amended by this decision) and for the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1, D DM4, TSP1 of the Arun Local Plan.

2 Except as indicated on 0034-05 NMA Proposed Elevations as submitted with this application (the use of cladding matching the rear dormer to the front elevation), the materials to be used in the construction of the external surfaces of the approved dwelling hereby permitted shall match those used in the existing building (1 Finch Gardens).

Reason: As previously imposed by the appeal decision concerning application BE/74/18/PL (amended by this decision) and to enable the Local Planning Authority to control the development in detail in the interests of visual amenity in accordance with policies D DM1 and D DM4 of the Arun Local Plan.

3 No part of the development shall be first occupied until the driveway access and vehicle parking has been provided in accordance with the approved Site and Block Plans as submitted with this application. These spaces shall thereafter be retained for parking.

Reason: As previously imposed by the appeal decision concerning application BE/74/18/PL (amended by this decision) and in the interests of road safety and to provide adequate on-site car parking space for the development in accordance with Arun Local Plan policy T SP1.

4 No part of the development shall be first occupied until details of the covered and secure cycle storage has been submitted to and approved by the Local Planning Authority, and thereafter

retained.

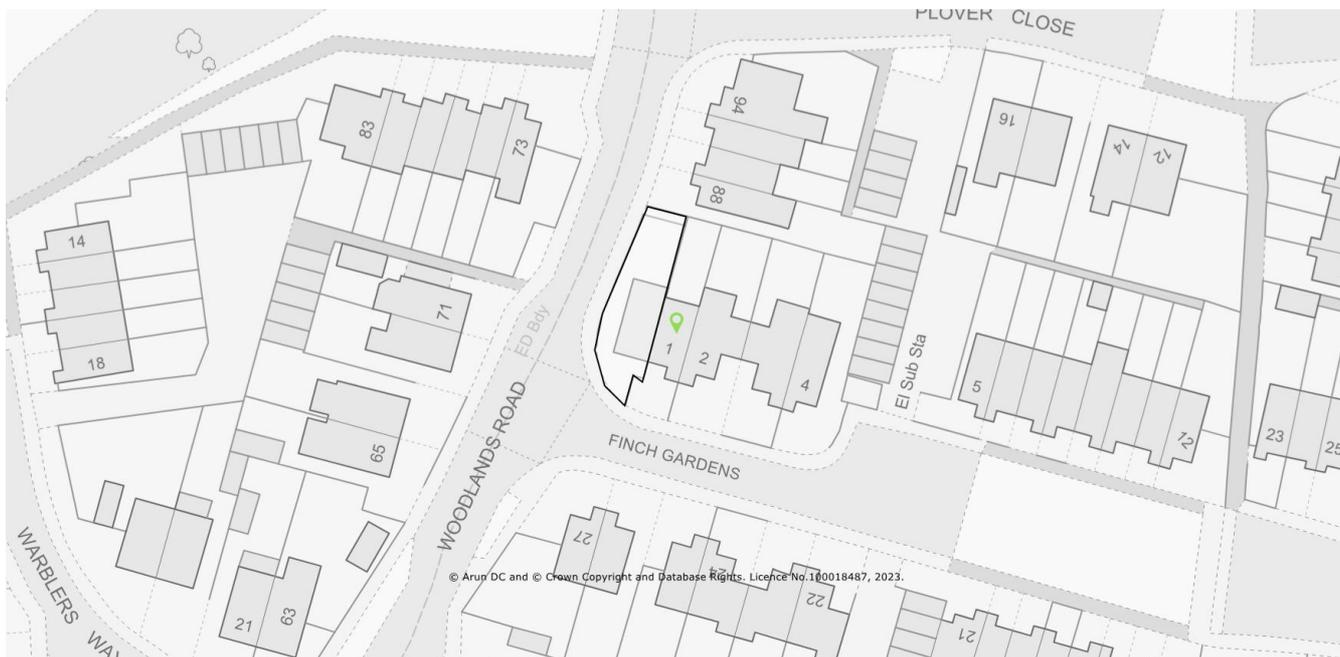
Reason: As previously imposed by the appeal decision concerning application BE/74/18/PL and in the interests of providing alternative travel options to the use of the car in accordance with Arun Local Plan policy T SP1.

- 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 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.
- 6      INFORMATIVE: It is noted that this permission will be granted pursuant to Section 73 of the Town and Country Planning Act 1990 and the original permission was granted before a Community Infrastructure Levy (CIL) Charging Schedule took effect. Therefore, in accordance with the CIL Regulations 2010 (as amended) there will be no CIL charge on this permission as there is no net increase in floorspace between the original permission and the Section 73 permission.

#### BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**BE/143/22/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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