

PLANNING APPLICATION REPORT

REF NO: FG/73/20/PL

LOCATION: Eastlands
Littlehampton Road
Ferring
BN12 6PB

PROPOSAL: Variation of Condition 4 approved under FG/8/20/PL for the condition to read 'The occupation of the dwelling shall be limited to a person or persons solely or mainly working, or last working, at the equestrian centre at Eastlands, or a widow or widower of such a person, and to any resident dependants'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. Condition 4 approved under FG/8/20/PL reads as follows: 'The occupation of the residential unit shall be limited to a person solely or mainly working at the equestrian centre at Eastlands. Reason: In the interests of preserving the residential unit for agricultural/equestrian purposes in accordance with policy C SP1 of the Arun Local Plan.' It is proposed to amend this condition to include the words 'or last working'. The implication of this will be that the current occupiers could remain occupying the dwelling after they have ceased working at the equestrian centre.
SITE AREA	0.4 hectares.
BOUNDARY TREATMENT	Site is bordered by post and rail ranch style fencing painted dark brown with approx. 6 metre tree hedging surrounding the site. The surrounding equestrian farm is bordered by a mixture of post and rail fencing and further 6m hedging.
SITE CHARACTERISTICS	The site is an enclosed landscaped area adjacent to a large stable block and horse menage on an equestrian farm. The site is to be used for permanent residential use with a grassed area, 2 existing car ports and a gazebo within the curtilage of the site.
CHARACTER OF LOCALITY	Vineyards to south. Highdown Hill and Gardens to north.

RELEVANT SITE HISTORY

FG/8/20/PL

Erection of 1 No. equestrian dwelling & retention of 1 No. gazebo & 2 No. carports. This application is a Departure from the Development Plan & may affect a Public Right of Way. Approve Conditionally 04-06-20

REPRESENTATIONS

Ferring Parish Council - Objection. Dwelling should only be to support equestrian business and for no other reason.

2 letters of objection.

Permission solely granted to maintain equestrian centre.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed in conclusions section of this report.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

None.

POLICY CONTEXT

Designation applicable to site:

OUTS BUILT AREA

RIGHT OF WAY

DEVELOPMENT PLAN POLICIES

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

HDM3 H DM3 Agricultural forestry and horticultural Rural dwellings

[Ferring Neighbourhood Plan 2014 Policy 1A](#)

A Spatial Plan for the Parish

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 policy of the Ferring Neighbourhood Plan has been taken into account and are listed elsewhere in the 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 policy H DM3 (g) of the Arun Local Plan.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan. These are that the existing condition is not considered to be necessary and reasonable as required by the National Planning Policy Framework (NPPF) paragraphs 55 and 56. The requested amendment is reasonable in that it would allow the applicant and any of his dependants with security of tenure of the dwelling.

CONCLUSIONS

PRINCIPLE

The principle of erecting a dwelling on the site has been established by the approval of FG/8/20/PL. The application proposes to vary that permission by varying condition 4 which relates to occupation of the dwelling by the agricultural worker. The only matter to be determined by this application is whether to grant a variation of condition 4 as proposed.

The proposal is contrary to the development plan because policy H DM3 does not specifically allow for a person last working in the agricultural enterprise or their spouse and dependents to occupy the dwellinghouse separate to the applicant.

The issue to consider is whether the proposal would comply with paragraphs 55 and 56 of the NPPF which require that planning conditions must be necessary and reasonable in all other respects.

NPPF AND POLICY H DM3

It would be unreasonable to prevent occupation of the dwellinghouse in the event of illness, injury and other forms of unemployment of the operator of the equestrian enterprise as this would require the occupier to vacate the property and find alternate accommodation when that may not be practical. In addition, it would be unreasonable to deny the spouse and dependents of the applicant the ability to occupy the house in the event of his death. Hence the proposed re-worded condition is both necessary and reasonable and compliant with paragraphs 55 and 56 of the NPPF.

The key phrase in the condition is 'last working in'. This phrase and the condition as a whole is a model condition from circular 11/95 which is retained as government guidance. For this reason the condition as a whole is considered acceptable.

Policy H DM3 (g) of the Arun Local Plan stipulates that the occupation of agriculturally tied dwellings must be only limited to a person solely or mainly employed in the locality in agriculture or forestry.

To limit the dwelling in this way is contrary to the requirements of the NPPF and paragraphs 55 & 56.

SUMMARY

The re-worded condition does not separate the occupier of the dwelling from having a connection to the equestrian use but does allow for a reasonable and necessary security of tenure for himself and dependants for the future occupation of the dwelling and is therefore recommended for approval.

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

- 1 The occupation of the dwelling shall be limited to a person or persons solely or mainly working, or last working, at the equestrian centre at Eastlands, or a widow or widower of such a person, and to any resident dependants.

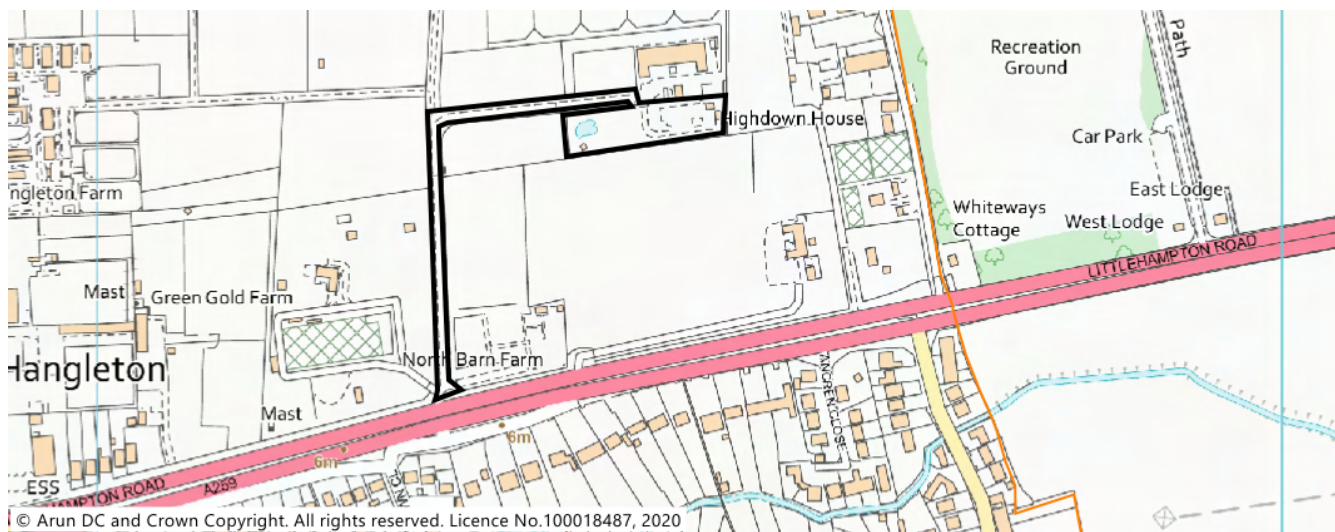
Reason: In the interests of preserving the residential unit for agricultural/equestrian purposes in accordance with policy C SP1 of the Arun Local Plan.

- 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 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.
- 3 **INFORMATIVE:** This approval amends condition number 4 of FG/8/20/PL only. All other conditions of FG/8/20/PL remain in force.

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.

FG/73/20/PL - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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