

Parish: Earnley	Ward: East Wittering
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**E/18/02665/FUL**

**Proposal** Demolition, resiting and erection of 1 no. 2 bed dwelling as alternative to the change of use of one of the buildings to a dwelling permitted under E/17/03249/PA3Q.

**Site** 136 Almodington Lane Almodington Earnley PO20 7JR

**Map Ref** (E) 482122 (N) 97388

**Applicant** Mr M Romaniuk

**RECOMMENDATION TO PERMIT WITH S106**



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## **1.0 Reason for Committee Referral**

Parish Objection - Officer recommends Permit

## **2.0 The Site and Surroundings**

- 2.1 The application site is located within the Parish of Earnley and within one of the Land Share Association plots established in the 1950s as small horticultural holdings that are a prominent feature of this horticultural area. The site and area has a rural and spacious character and the application site is located within the countryside outside of any settlement boundaries. The site is flat and verdant and is occupied by two single storey agricultural timber buildings.
- 2.3 The existing timber building (closest to the driveway) is formed by a rectangular low key structure with a simple form and gable ends to the north and south. The existing building measures; 8.1m x 12m x 4.4m high and 2.3m - to underside of eaves.

## **3.0 The Proposal**

- 3.1 This application proposes the demolition of one of the existing timber buildings which has previously been subject to a Class Q prior approval 17/02349/PA3Q for the; 'Change use of agricultural building to a dwelling'.
- 3.2 A new bungalow would be erected to replace it with a similar but varied siting (to the south of the existing building) and the footprint would measure 8m x 12m with ridge height of 5.1m and eaves height of 2.1m.
- 3.3 The external materials to the walls would include render with brick quoins and fenestration detail and a slate tiled roof. The building is proposed to take a similar design to the existing building with rectangular form with gable ends to the north and south. The internal layout would include open plan kitchen, dining and living area with two bedrooms and a bathroom.

## **4.0 History**

78/00010/E		Improved entrances to smallholdings from highway.
84/00012/E	PER	Lounge extension and alterations.
93/00522/E	REF	Side and first floor rear extension.
91/00016/E	REF	O/L application for erection of agricultural workers dwelling.
93/00105/DOM	REF	First floor extension.
93/00522/DOM	REF	Side and first floor rear extension.

99/01990/DOM	PER	Extension at first floor level to provide bedroom and bathroom over existing flat roof plus extension to kitchen.
09/01250/FUL	PER	Change of use of redundant nursery storage building to 1 no. two bedroomed unit of holiday accommodation and associated works.
15/01065/FUL	PER	Retrospective planning application for a seed store to the rear of existing greenhouses.
16/00433/FUL	WDN	Change of use of holiday accommodation and storage building into two bedroom chalet bungalow with garage and garden.
16/02934/FUL	REF	Replace 2 no. outbuildings with 1 no. dwelling and attached garage.
17/02202/PA3Q	WDN	Proposed change of use of agricultural buildings to 2 no. dwelling (C3 Use Class).
17/03249/PA3Q	YESPAP	Part 3, Class PA3Q: Change of use of 2 no. agricultural buildings to 2 no. dwellings (C3 Use Class).
18/01290/DOC	DOCDEC	Discharge of Conditions 3 and 7 of prior approval application E/17/03249/PA3Q - Contaminated land scheme and schedule of materials and finishes.
17/00002/REF	DISMIS	Replace 2 no. outbuildings with 1 no. dwelling and attached garage.

## 5.0 Constraints

Listed Building	No
Conservation Area	No
Countryside	Yes
AONB	No
Tree Preservation Order	No
EA Flood Zone	No
Historic Parks and Gardens	No

## **6.0 Representations and Consultations**

### **6.1 Parish Council**

23/11/2018

Earnley Parish Council's Planning Committee reviewed your comments last night and although they understand the fall back position the parish council are still of the view that they object to the application, as this application is not within the spirit of the law, they will be sending representation to the Planning Committee to speak on this application.

29/10/2018

At its meeting on 23rd October Earnley Parish Council Planning Committee resolved to object to the relocation of the building and the proposed demolition of only one of the permitted building. The Parish Council were of the view that if the applicant did not have a permitted development within the site then there was no viable planning reason to permit a new build in the new proposed location as it was building within the countryside and does not comply with the local plan or the planning policy framework and in particular policy 79. In other words, this application should be treated entirely separately from the prior approval given under class Q permitted development. If it were approved it would set a dangerous precedent, encouraging others to submit class Q applications intending all along to build a new property in a different location.

The Council is very concerned about over proliferation of new builds in Almodington and therefore strongly objects to this application.

### **6.2 CDC Land and Coastal Drainage Officer**

04/12/2018

Further consultation comments received regarding;

- a) No problem with the site layout as proposed, therefore happy for you to amend this part of the proposed condition.
- b) The size of development is irrelevant.
- c) Easement to watercourses must be maintained and any proposed alterations to watercourses controlled.
- d) If it is found that infiltration does not work then flows would be attenuated and discharged to watercourses (in line with the hierarchy for sustainable drainage).
- e) Discharge of flows to watercourses requires control under the planning process to ensure the development does not have a detrimental impact in terms of flood risk.
- f) Discharge should be at a rate no greater than  $Q_{bar}$  of the predeveloped site or at 2l/s . Attenuation needs to be provided to achieve this and therefore can impact upon the development scale and layout.
- g) All discharges and planned alterations to ordinary watercourses require land drainage consent.

02/11/2018

Flood risk- the site is within flood zone 1 and we have no historic records of flooding. Therefore, we have no objection to the size or location of development based on flood risk.

Surface water drainage- The application form details that surface water will be disposed of by soakaway. This is acceptable in principle. Infiltration should be fully investigated and the drainage designed to meet building regulation requirements. There is a ditch running to the front of the property. If you are minded to approve this application please apply the following conditions to ensure the development does not increase flood risk elsewhere: "Any discharge to a watercourse must be at a rate no greater than the pre-development run off values. " and " The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted to and approved in writing by the Local Planning Authority. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site."

### 6.3 Natural England

No objection – subject to appropriate mitigation being secured

We consider that without appropriate mitigation the application would be likely to have a significant effect through recreational disturbance on Pagham Harbour SPA and Ramsar and Chichester and Langstone Harbours SPA/Ramsar, in combination with other residential proposals in the area.

In order to mitigate these adverse effects and make the development acceptable, an appropriate contribution should be made to strategic access management in accordance with Chichester DC policy guidance.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's advice on other natural environment issues is set out below.

Further advice on mitigation

Mitigation measures for recreational disturbance to SPA birds

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Areas and Ramsar Sites may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solutions which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the sites. The financial contribution should be made in accordance with the guidance in your authority's note 'Recreational Disturbance of Birds in Special Protection Areas (SPAs) - Guidance for planning in the Chichester Local Plan area' (March 2018)

Notwithstanding this, Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an Appropriate Assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017.

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an Appropriate Assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context. The consultation letter we received regarding this proposal states that as your Authority is required to carry out an Appropriate Assessment, you are consulting Natural England as the appropriate nature conservation body. However, the planning documents on the Chichester District Council website do not include an Appropriate Assessment. Without that document having been produced, Natural England is unable to comment on it.

#### Other advice

##### Protected Species

Natural England has produced standing advice<sup>2</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

#### 6.4 WSSC Highways

West Sussex County Council was consulted previously on Highway Matters for this location under planning application E/17/03249/PA3Q seeking Part 3, Class PA3Q: Change of use of 2 no. agricultural buildings to 2 no. dwellings (C3 Use Class). No highways concerns were raised and prior approval was granted by the Local Planning Authority.

This latest application seeks the demolition, resiting and erection of 1 no. 2 bed dwelling as alternative to the change of use of one of the buildings to a dwelling permitted under E/17/03249/PA3Q.

The Local Highways Authority accepts that the principle of residential use at this site has been established under E/17/03249/PA3Q. No changes are to be made to the existing access arrangements. Adequate parking provision has been demonstrated on the proposed site plan.

The Local Highways Authority does not consider that the proposal would have a unacceptable impact on highway safety or a 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

If the Local Planning Authority is minded to grant planning consent the following conditions regarding the provision of cycle and car parking would be advised:

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

## 6.6 Third party comments

One Third Party letter of objection has been received concerning:

- a) Will result in the over proliferation of housing in a rural area.
- b) Should be treated entirely separately from the prior approval given under class Q permitted development.
- c) To approve this application will create a precedent
- d) Concerns about the spread of new housing due to class Q applications.
- e) The quiet rural character of Earnley Parish, in particular Almodington village, has been damaged.

## 7.0 Planning Policy

### The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for Earnley at this time.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

### Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 8: Transport and Accessibility

Policy 29: Settlement Hubs and Village Centres

Policy 33: New Residential Development

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction

Policy 42: Flood Risk and Water Management

Policy 45: Development in the Countryside

Policy 47: Heritage and Design

Policy 48: Natural Environment

Policy 49: Biodiversity

Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours

Special Protection Areas

Policy 51: Development and Disturbance of Birds in Pagham Harbour Special Protection Area

## National Policy and Guidance

- 7.3 Government planning policy now comprises the 2018 National Planning Policy Framework (NPPF), paragraph 11 of which states:  
At the heart of the NPPF is a presumption in favour of sustainable development,  
For decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.4 Consideration should also be given to Sections 4 (Decision-Making), 9 (Promoting Sustainable Transport), 11 (Making effective use of land), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), 15 (Conserving and enhancing the natural environment) generally.

## Other Local Policy and Guidance

- 7.5 The following Supplementary Planning Documents are material to the determination of this planning application:

Planning Obligations and Affordable Housing SPD

- 7.6 Consideration has also been given to the CDC Published Guidance;  
CDC PGN3: Design Guidelines for Alterations to Dwellings and Extensions  
CDC Waste Storage and Collection Guidance

The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

- 8.1 The main issues arising from this proposal are:

- i. Principle of development
  - ii. Design and impact upon visual amenity/character of Area
  - iii. Impact upon the amenity of neighbouring properties
  - iv. Highway safety
  - v. Ecological considerations
  - vi. Drainage
- 
- i. Principle of development

- 8.2 The application site is located outside of the defined settlement boundaries and is within the open countryside where new development is usually restricted in accordance with policies 1 and 2 of the Chichester Local Plan (CLP), unless otherwise permitted within policies contained in the plan. The development plan seeks to ensure that new development is directed to the most sustainable locations. Although the site lies in a rural area where new dwellings are not usually permitted, the application concerns a building that has been given prior approval to be used as a dwelling under reference E/17/03249/PA3Q and regard must be had to the 'fall-back' position for the site.
- 8.3 The building is structurally sound and capable of conversion without significant new build and there is no reason to consider that the existing building could not be converted in situ to provide a dwelling on the site. The Parish Council has objected on the basis that the proposal to provide a replacement dwelling does not comply with the local plan or the planning policy framework and in particular paragraph 79. In this case it is clear that prior approval under class Q has been given with some works (as allowed by Class Q) and the potential for a dwelling to be created on the site in a very similar form is a material consideration that carries significant weight in this instance. The principle of the development is therefore considered to be acceptable.
- ii. Design and impact upon visual amenity/character of Area
- 8.4 The proposed dwelling would replace the existing building and would be of an alternative siting, set to the south of existing building. The bungalow would be of the same size footprint, 96sqm. The roof form would be gable ended and would follow the design of the existing building. The ridge height would have a ridge height of 5.1m (increased by 600mm from the existing building which is 4.4m high) and the eaves 2.1m.
- 8.5 The design and appearance of the proposed dwelling in place of the existing building is considered to be in keeping with the rural character of the site and its surroundings. The revised siting, size and appearance would be commensurate with the character and appearance of the existing site.
- 8.6 The building would be set further forward to the road and in line with the principle elevation of the original dwelling and would utilise an existing vehicular access. Significant space would be retained around the building which would remain low key and would be unobtrusive within its rural setting. It is considered that the proposed building would be of a sympathetic design, height, size, bulk, mass, scale, form and proportions that would respect the visual character of the site and locality. The spacious character would be retained.
- 8.7 The proposed external materials and finishes have been considered and the proposed brick, render and plain tiled or slate roof would be considered sympathetic to the visual amenities of the area. A condition is recommended to ensure the finish of the materials reflects materials found in the surrounding area to ensure the development would respect and respond to the rural character of the site and surroundings.

iii. Impact upon the amenity of neighbouring amenity

8.8 The size and position of the plot and modest level of development being sought by this application would not result in harm to the living conditions and amenities of neighbouring properties and gardens. This site is relatively isolated in as much as its relationship with other dwellings and their gardens. Therefore it is considered that the development complies with paragraph 127 of the NPPF and policy 33 of the current CLP.

iv. Highway Safety

8.9 The existing vehicular access would be utilised and it is considered to be suitable for the proposal. Space for on-site parking and turning would be provided in accordance with the submitted site plan. Therefore the proposal would benefit from safe and adequate access in accordance with policy 39 of the Local Plan.

v. Ecological considerations

8.10 In accordance with CLP policies 50 and 51 and the CDC Planning Obligations and Affordable Housing SPD an amended Unilateral Undertaking and appropriate contributions has been submitted to mitigate the likely significant impact of the development on the Chichester and Pagham Harbour Special Protection Areas. An Appropriate Assessment has also been carried out by the LPA and it is considered appropriate to mitigate the likely significant impact of the development on the SPAs in this manner. Natural England considers that the likely significant impact will be mitigated on the SPAs provided contributions are secured.

vi. Drainage

8.11 The application form states that surface water will be drained to soakaways. This is acceptable in principle and should be designed to meet building regulations requirements. There are no changes to the existing access and the ditch to the front of the site lies approximately 27m from the south elevation of the proposed property. The CDC Land and Coastal Drainage Officer has been consulted and has requested a condition regarding access and maintenance to/of the watercourse. However, given the arrangement here and the fact that the ditch is some distance from the application site and access to the ditch would not be obstructed by the proposed development this condition cannot be considered reasonable and further the requirements lie in legislation outside the planning arena. However, it is proposed to draw the applicant's attention to the need for separate watercourse drainage consent through an appropriately worded informative.

8.12 The site is located within EA flood zone one and therefore a Flood Risk Assessment is not required for this development.

Other Matters

8.13 The Pre-commencement conditions have been agreed with the agent.

Conclusion

8.14 It is considered that the proposed replacement property would be in keeping with the character of the existing building, noting that prior approval is in place for its change of use to a dwelling through the provisions of the GPDO. By reason of the siting, scale and appearance of the proposed development, the proposal would respect the character and quality of the site and surroundings and would not be detrimental to the amenity of neighbouring properties. The proposal accords with national and local planning policies and therefore, this application is recommended for approval.

#### Human Rights

8.15 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

#### **RECOMMENDATION**

**PERMIT WITH S106** subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 1, 3, 6 and 7.

Reason: To ensure the development complies with the planning permission.

3) Prior to commencement of any works on site the existing building subject to prior approval given under reference E/17/03249/PA3Q as indicated on approved drawing 3 to be demolished, shall be demolished in its entirety and all resulting debris removed from the site.

Reason; to accord with the terms of this application and in the interest of visual amenities.

4) No development shall commence until a strategy outlining details of the sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology, energy consumption maximising renewable resources, and how a reduction in the impacts associated with traffic or pollution will be achieved including but not limited to charging electric vehicles, has been submitted to and approved in writing by the Local Planning Authority. This strategy shall reflect the objectives in Policy 40 of the Chichester Local Plan: Key Policies 2014-2029 and shall include a maximum of 110 litres per person per day water usage. The approved strategy shall be implemented as approved prior to first occupation unless any variation is agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of the development upon climate change. These details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

5) Prior to the erection of the walls and roof, a schedule of materials and finishes and samples of such, for the external walls and roofs of the building subject to this prior approval, shall first be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance to the agreed details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to ensure a building of visual quality.

6) Prior to the erection of any boundary treatments and first occupation, details of the boundary treatments shall first be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be maintained as agreed in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity.

7) No part of the development shall first be occupied until; covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

8) Prior to first occupation the parking and turning shall first be laid as shown on the approved plans and thereafter maintained in perpetuity for that purposes.

Reason: In the interest of highway safety.

9) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer or watercourse or discharging into the ground. Associated pipework shall be located above ground where possible and protected from accidental damage.

Reason: To enable the Local Planning Authority to retain control over the development which may prevent pollution.

10) ) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A to E of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: In the interests of protecting visual amenities.

11) Notwithstanding the provisions of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking ,re-enacting or modifying that Order) no fence, wall or other means of enclosure shall be erected, constructed or established on any of the Open Space or Amenity Areas shown on the approved plans.

Reason: in the interest of visual amenities.

#### INFORMATIVE

The applicant/contractor should be aware that no construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

The applicant/contractor should be aware that formal consent is required in writing from the Lead Local Flood Authority (WSSCC) or its agent (CDC) for the discharge of any flows to watercourses.

For further information on this application please contact Maria Tomlinson on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PGFOSZERKLN00>