

7th December 2016

Dear Sirs

Re: Outline Planning Application for the Construction of 57 Dwellings at Land East of Orchard Gardens, Woodgate (ADC reference AL/111/16/OUT)

The Parish Council objects to this application.

Please note the following review and comments of the most salient issues associated with the proposed residential development at Land East of Orchard Gardens, Woodgate (the 'Applications Site'). This is the basis of the Parish Council's objections.

On 17th October 2016 Tcplanning (the 'Applicant') submitted an outline planning application, under ADC reference AL/111/16/OUT. The 'Proposed Development' is described as follows:

'Outline application with some matters reserved for 58no. units with public open space & affordable housing.'

It is noted that the description of the development on Arun District Council's (ADCs) website includes a caveat outlining that:

'This application is a departure from the Development Plan.'

1.0 Background

1.1 Aldingbourne Neighbourhood Development Plan 2014 - 2034

The Aldingbourne Neighbourhood Development Plan (ANDP) passed referendum on 18th October 2016 and is now a 'made' plan which forms part of the Development Plan. The policies contained within the ANDP are therefore relevant to the determination of the Proposed Development.

1.2 Housing Land Supply and Weight to Development Plan Policies

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine applications for planning permission in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The adopted Development Plan relevant to the consideration of this planning application comprises the following documents:

- Arun Local Plan 2003 (Adopted April 2003)
- Aldingbourne Neighbourhood Development Plan (2014-2024) (Made October 2016)

ADC are in the process of producing a new Local Plan (the eALP). This Local Plan has been submitted for examination. However, the Planning Inspectorate, as a result of issues pertaining primarily to housing land supply, suspended the examination. The draft policies contained within the eALP are a material policy consideration in the determination of planning applications.

ADC do not currently have a 5 year Housing Land Supply (HLS). All adopted and emerging Development Plan Policies relating to housing can therefore be considered out-of-date under the provisions of paragraph 49 of the National Planning Policy Framework (NPPF).

Given that certain policies contained within the Development Plan are out-of-date, the provisions of paragraph 14 of the NPPF (4th bullet point) are engaged. That is to say, planning permission should be granted for the Proposed Development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development when assessed against the NPPF as a whole (Limb 1). Alternatively planning permission should not be granted where specific policies in the NPPF indicate that development should be restricted (Limb 2). This is caveated by Footnote 10 of Paragraph 14, which states that planning permission should be granted, 'unless material considerations indicate otherwise'.

In *Crane v SoS* [2015] the Judge confirmed that the absence of a five year supply HLS was neither conclusive in favour of granting planning permission, nor did it alter the statutory framework for making decisions on planning applications. That is to say, whilst the weight to be afforded to the out-of-date Development Plan policies could be considered, in certain case-specific circumstances, to be reduced, it is not removed entirely. Furthermore, in the determining the Yapton Appeal (APP/C3810/A/14/2228260), the Secretary of State, whilst acknowledging the absence of a 5-year HLS, placed 'very substantial weight' on the conflict between the appeal proposal and the Yapton Neighbourhood Development Plan.

1.3 'Barnham/Eastergate/Westergate' Proposed Emerging Local Plan Allocation

The Application Site is located to the east of Orchard Gardens in Woodgate on a greenfield site which forms part of the wider Barnham/Eastergate/Westergate (BEW) draft housing allocation under eALP Policy H SP1. Whilst this policy is a material consideration in the determination of this planning application, it should be noted that the examination of the eALP has been suspended and that this allocation has not been tested by an Examiner and has not therefore been found 'sound'. Draft Policy H SP1, on Strategic Housing, Parish and Town Council Allocations, states that the BEW site should provide at least 2000 homes. It is understood that the number of homes proposed is likely to increase as a result of the existing HLS position within the District. Policy H SP1 requires the production of 'a coherent masterplan covering the site as a whole'. Paragraph 12.1.33 of the eALP states in part:

'It should also be noted that detailed masterplanning work has been undertaken with respect to the Angmering strategic housing allocation and is currently underway for the allocation at Barnham / Eastergate / Westergate. This work will add further detail regarding the phasing, associated land uses, deliverability and viability of the allocation' (AHCL emphasis)

There are various masterplan documents available online but none of these appear to have any status in policy terms and it is not clear what status any such document will have once finalised. It is also not clear, given the statement above, whether ADC have come to a view on a final Masterplan for the BEW allocation.

The weight to be afforded to Policy H SP1 is governed in part by Paragraph 216 of the NPPF. Paragraph 216 sets out that emerging policies may be given weight depending upon: their stage of preparation; the extent to which there are unresolved objections; and the degree of consistency with policies contained within the NPPF. There are a large number of unresolved objections to the BEW allocation. As mentioned previously, whilst the eALP is at an advanced stage, having been submitted for examination, the examination has been suspended. These two considerations both reduce the weight which may be afforded to eALP Policy H SP1 as a material consideration in the determination of planning applications. Indeed, in determining the Yapton Appeal the Planning Inspector afforded 'limited, if any weight' to eALP policies relating to the supply of housing.

2.0 Local Policy Assessment

This assessment summarises the issues where a conflict with the adopted and/or emerging Development Plan policies is considered to exist.

2.1 Principle of Development

Although the Application Site is located within the boundary of the emerging BEW allocation, the eALP has not yet been adopted and it is understood that a final masterplan for the allocation has not been agreed with ADC. The draft allocation is therefore a material consideration which may only be afforded 'limited, if any weight' at this stage (as in the Yapton Appeal). The relevant policies to the principle of development of the adopted Development Plan are considered in turn below.

Arun District Local Plan (ADLP) (2003)

Saved ADLP Policy GEN2, Built-Up Boundary, states that the boundaries of the 'built-up' area are defined by the ADLP Proposals Map. The Application Site is located outside of any 'built-up' area boundary and therefore constitutes 'open countryside' in planning terms. Policy GEN2 states in part:

'Outside the built-up area boundaries, development or redevelopment will not be permitted unless it is consistent with other Local Plan Policies.'

This policy aims to preserve the setting of existing settlements within the District. The Proposed Development would be in direct conflict with Policy GEN2, as the Application Site is wholly located beyond any built up area boundary as defined on the ADLP Proposals Map. Furthermore, the Proposed Development is not consistent with any other ADLP Policies relevant to the principle of development in open countryside. The proposed development is thus a departure from the development plan.

ADLP Policy GEN3, Protection of Countryside, outlines that the countryside will be safeguarded from development unless that development meets at least one of the five criteria listed. Criteria (i) to (iv) relate to other types of development, none of which are applicable to the Proposed Development. Criterion (v) is permissive of development in open countryside where it is in accordance with a policy in 'Sections 2 and 3' of the ADLP. Section 2 lists area specific policies and the Application Site is not included within any of these policies. Section 3 details policies related to specific types or forms of development. None of the policies listed within Section 3 of the ADLP are applicable to the Proposed Development.

The Proposed Development therefore conflicts with ADLP Policies GEN2 and GEN3. However, these policies are considered to be 'out-of-date' as the District does not currently have a 5 year HLS of deliverable sites. The weight to be afforded to these policies is therefore a matter for the decision-maker.

Aldingbourne Neighbourhood Development Plan (2014-2024) (Made October 2016)

The Application Site is located within the Aldingbourne Neighbourhood Area as defined on page 8 of the ADNP. Therefore the policies of the ADNP apply in the determination of this planning application.

Map E of the ADNP shows the built-up-area boundary of the Neighbourhood Area. The Application Site is located wholly outside of the built-up-area boundary. Policy EH1, on Built up Area Boundary, states in full:

'Proposals for development within the built-up area boundary of Westergate, defined on Map E will generally be permitted, subject to meeting the requirements of other policies set out in the Plan. □

Proposals for development outside of the built-up area boundary, that do not accord with development plan policies in respect of the countryside, will be resisted unless it is for essential utility infrastructure, where the benefits outweigh any harm, and it can be demonstrated that no reasonable alternative sites are available.' (AHCL emphasis)

As outlined above, the Proposed Development conflicts with adopted Development Plan Policies in relation to protection of the countryside (GEN2 and GEN3). On this basis, it is considered that the Proposed Development conflicts with ADNP Policy EH1.

In summary, it is considered that the Proposed Development conflicts with adopted Development Plan policies in relation to the principle of development and is a departure from the Development Plan. Specifically the Proposed Development conflicts with ADLP Policies GEN2 and GEN3 and ADNP Policy EH1. The eALP Policy H SP1 is a material consideration in the determination of this planning application which can only be afforded limited, if any weight. The BEW allocation has not yet been examined or found 'sound'. To add to this the eALP examination has been suspended and there are a large number of unresolved objections to the BEW allocation. Even if the ADC determine that weight can be afforded to eALP Policy H SP1, it is understood that a masterplan for the wider allocation has not yet been finalised with ADC as required by draft Policy H SP1.

2.2 Affordable Housing

Policy DEV17 of the ALP (2003) sets out that affordable housing provision will be sought where residential developments comprise 25 or more dwellings. This policy does not set a percentage for affordable housing provision but states that the level and type of provision will be dependent upon local housing need, character of the area, suitability of the site and market conditions.

Policy HSP2 of the eALP requires 30% of residential units to comprise affordable housing on site where the development comprises over 15 residential units.

It is recognised and welcomed that there appears to be a commitment from the Applicant to provide 30% affordable housing. However, the recently made ANDP also deals with affordable housing and seeks a higher level of provision. Policy H4 states in full:

'Any proposal for 10 or more new dwellings should include 40% affordable units, unless this can be demonstrated to make the scheme unviable. The size and tenure of affordable units should reflect latest available housing needs evidence.'

The Proposed Development therefore currently conflicts with ADNP Policy H4.

2.3 Ecology and Biodiversity

ADNP Policy EH2, on Green Infrastructure and Ecosystems services states in full:

'New development within, or immediately adjacent to the Biodiversity Corridors identified on Maps A1 and A2 will only be supported where it can be clearly demonstrated that development proposals will not give rise to any significant harm to the integrity or function of the Biodiversity Corridors.'

The site is wholly located in a biodiversity corridor as shown on Map A1 of the ADNP. Paragraph EH2.2 states in full:

'All development with the potential to adversely impact on the areas defined on Map A will be required to demonstrate how the scheme will impact on the integrity and function of the Biodiversity Corridors. Where necessary, this should include the identification of avoidance and mitigation measures sufficient to avoid any significant harm to the designation. Developers are

strongly encouraged to also demonstrate how the overall function and integrity of the Biodiversity Corridors may be enhanced to provide a 'net gain'. Proposals should also include a management plan to ensure that effective long-term management of the key features within the Biodiversity Corridor can be achieved.'

A Preliminary Ecological Appraisal (PEA) Report has been submitted as part of the planning application. We would recommend that an Ecologist could be instructed to review the extent to which the Proposed Development accords with ANDP Policy A1 taking into account the findings of the PEA. However, it is noted that the Council's Ecologist, in a consultation response dated 16th November 2016, has highlighted a requirement for further reptile surveys in relation to the Proposed Development. The Council's Ecologist also outlines that these surveys should be undertaken prior to any grant of planning permission, in accordance with Natural England's standing advice.

2.4 Conflict with EH3: Development on Agricultural Land

The land is Grade 2 Agricultural. The development would permanently remove an area of grade 2 BMV land and would therefore conflict with ANDP Policy EH3.

2.5 Conflict with EH4: Watercourses

The proposed development is contrary to the aims of policy EH4. The site abuts a woodland and watercourse, this is a remnant floodplain Wet Woodland which is a priority habitat under the UK Biodiversity Action Plan.

2.6 Conflict with EH5 Surface Water Management

There is a conflict with ANDP Policy EH5. There is no detailed Flood Risk Assessment and insufficient information regarding how a flood risk will be dealt with. Flood risk within the area arises because of high groundwater and interaction of surface water and groundwater paragraphs EH5.4, EH5.5, EH5.6 apply.

2.7 Policy EH6: Trees and Hedgerows

The application is in conflict with Policy EH6 as this policy also relates to significant damage to ecological networks.as it causes Which also covers significant damage to ecological networks

2.8 Access/A29

The Council is concerned that the access to the site is along a road that is too narrow to deal with the additional traffic movement and that access onto the A29 does not take account of existing development proposals on the A29 in this location principle the Hallam Land Development.

Southern Water

The Council is concerned that there is insufficient capacity at the Lidsey waster Water Teatment plant to cope with this development.

2.9 Groundwater Flooding - Covered in 2.6 above.

3.0 Conclusions

In establishing the acceptability of the principle of the Proposed Development at the Application Site we have reviewed the relevant adopted and emerging development plan policies. The Proposed Development conflicts with ALP Policies GEN2 (Built-up-Area Boundary) and GEN3 (Protection of Countryside) and the more recently adopted ADNP Policy EH1 (Built Up Area Boundary). The Application Site is located within the area of the BEW draft housing allocation under eALP Policy H SP1. However this policy is not yet adopted, with the eALP examination suspended. In addition there are unresolved objections to Policy H SP1 and the eALP has not yet been subject to examination. These factors reduce the weight to be afforded to this policy. All emerging and adopted Development Plan policies relating to housing are out-of-date given the existing HLS position within the District. Significant weight can be given to the benefits associated with the provision of 57 dwellings within this context. However, it is still possible to attribute 'very substantial' weight to the conflict with the adopted Development Plan Policies even within the existing HLS context (as in the Yapton Appeal). The weight to be afforded to these policy conflicts is a matter for the decision-maker.

The Proposed Development also conflicts with ADNP Policy H4 which requires the provision of 40% affordable housing.

In addition, the Application Site is wholly located within an area designated under ADNP Policy EH2 as a 'Biodiversity Corridor'. It is recommended that the Parish Council seeks specialist advice from an Ecologist in order to establish the extent to whether the Proposed Development accords with this Policy. However, it is noted that the ADC Ecologist has requested that additional reptile surveys are undertaken in advance of any grant of planning permission.

It is also noted that the Design and Access Statement submitted as part of the planning application does not appear to be available on the ADC website.

If you require any further clarification on any of the matters outlined above then please do not hesitate to contact me.

Yours faithfully

Mrs JKM Brown Clerk