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Our Ref:  
LY/APC/1812/211018

Your Ref:  
AL/113/21/OUT

Project No:  
APC/1812

Dear Mr S Davis,

**Re: Application in respect of Land at Bayards Level Mare Lane Eastergate  
(Application Reference AL/113/21/OUT)**

I make these representations on behalf of Aldingbourne Parish Council in respect of the above application and confirm that Adams Hendry Consulting Ltd is instructed to act on the Council's behalf.

On a procedural issue, Aldingbourne Parish Council would wish to highlight that following representations from many residents at their recent meeting, it has become apparent that residents have had limited time to respond in respect of this application. This is because they were not made aware of this application as it was originally posted incorrectly as an Eastergate Application.

As you are aware, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 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. With regards to the application site, the relevant part of the Development Plan comprises the Arun Local Plan 2011-2031 (adopted July 2018) and the Aldingbourne Neighbourhood Plan 2019-2031 (adopted July 2021). Aldingbourne Parish Council reviewed its Neighbourhood Plan following the adoption of Policy H SP1 of the Arun Local Plan (ALP) which allows for additional non-strategic allocations (at least 1,250) to be made through emerging Neighbourhood Plans.

**Development Principle**

The proposed development does not lie within a strategic site allocation and falls outside the built up area boundary as defined within the Arun District Council Local Plan. Policy EH1 of the Aldingbourne Neighbourhood Plan Built up Area Boundary (BUAB) explicitly states that new development on land which lies outside the BUAB will not be permitted. This policy sets out a number of criteria for the consideration of new development proposals when there is a demonstrable shortfall in housing land supply. Importantly, the first of these criteria refers to the need to ensure the proposal would be proportionate to the housing supply shortfall and local housing needs of the Parish and can be deliverable in the short term.

**5 Year Housing Supply**

As of 2020, based upon the Authority Monitoring Report, the Council could demonstrate a 3.3 year housing supply. In recognising that the proposal does not fall within an allocated site or defined settlement, the applicant seeks to make the case that the development plan should, for the purposes of the National Planning Policy Framework (NPPF) be considered out of date. A key point to note, is that Paragraph 14 of the National Planning Policy Framework States that in situations where the presumption in favour of sustainable development applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a.) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b.) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
- c.) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
- d.) the local planning authority's housing delivery was at least 45% of that required over the previous three years

In considering the above criteria, the Neighbourhood Plan was made on 14 July 2021 (well within the prescribed two year period). It also contains policies and allocations to meet its identified housing requirement in accordance with criterion (b). Whilst the Parish Council was required to allocate a minimum of 70 dwellings, in order to "future proof" its Neighbourhood plan it has allocated two sites for a total of 85 dwellings. This excludes 25 additional homes allocated within the Nyton Nurseries site, making a total ANDP provision of 110 homes. As indicated above, the Authority Monitoring Report demonstrates at least a 3 year housing supply. The Housing Delivery Test Action Plan demonstrates that Arun District Council's that housing delivery was at in excess of 45%. With this in mind, Aldingbourne Parish Council consider that in this case, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. This is based upon the criteria set out within Paragraph 14 of the NPPF.

Alongside the national policy considerations referred to above, it would be necessary to have regard to the fact that the government will "substantially ease the next set of housing delivery test results" by subtracting four months from housing requirement figures for 2020/21 - a third of the year - due to the disruption caused to housebuilding by the pandemic. This follows a written Ministerial Statement of 6 September where it was indicated that the 2021 Housing Delivery Test measurement would be calculated using data for to financial years 2018-19, 2019-20 and 2020-21. Over the course of the 2020-21 measurement year, there were considerable variations in levels of housing delivery due to disruption because of the pandemic. In terms of deducting 122 days from 2020/21, the intention is that a four-month adjustment to the housing requirement figures for 2020-21 would be applied to account for these fluctuations - a deduction of 122 days to account for the most disrupted period that occurred between April to end-July. This could potentially result in a significant adjustment to the housing delivery figures within Arun District, effectively reducing the overall housing requirement in the short term.

Regardless of whether Arun District Council's housing policies are to be considered 'out of date' for the purposes of the NPPF, it is the Parish Council's contention that this does not mean that the protection of landscape character should be set aside. Furthermore, whether or not the tilted balance is engaged does not determine the weight to be given to policies (whether they be out of date or not) which remains a matter of planning judgment for the decision maker. Importantly the National Planning Policy Framework (the Framework) also recognises the intrinsic character and beauty of the countryside, and the amended 2021 document places a significantly greater emphasis on the creation of high quality, beautiful and sustainable buildings and places (paragraph 126).

The Parish Council consider that the Aldingbourne NP has accommodated a substantial increase in the housing allocation, allowing its proportion of the shortfall in housing supply to be met. It is therefore considered that weight should still be given to the plan's housing policies.

#### Land west of Fontwell Avenue ( BN/50/20/PL) Approved December 2020

The applicant makes reference to the recent approval on the immediately adjacent site to the east of the proposal and this is referred to as part of the overall justification for the current proposal at Bayards. Having reviewed this decision, however it is noted the key points set out within the officer report which led to this application reaching a favourable outcome were as follows:

*... Within 800m (10min) walking distance of the site are bus stops, a shop/post office and a doctors surgery. In addition, there are bus stops within a 500m (6min) walking distance. There are further facilities in a 15 or 20min walking distance....*

*...The Council's Action Plan (June 2019) makes a series of recommendations to boost housing delivery. This includes relying on the 'presumption in favour of sustainable development' until such time as the 5-year housing land supply is re-established and the HLS is progressed through plan making. It recommends the Council consider inviting applications from landowners/developers on "deliverable" sites to re-establish the 5 year housing land supply. The release of further land for housing will help to maintain delivery rates and this may have to include sites outside the built up area boundary. It would be preferential if such sites were located close to the edge of the BUAB and in sustainable locations which minimise the need to use the private car....*

*...This site (NEWEG2) is shown in the 2019 HELAA and considered to be available and suitable in principle for future housing potential, possibly in conjunction with adjacent site, because of its accessibility. To facilities, job opportunities and public transport, and because there are no insurmountable constraints....*

The Housing & Economic Land Availability Assessment defines deliverable sites such as Fontwell as "suitable, available and achievable". The land at Bayards, however has been classed within the same assessment as "developable" (19AL1), with an identified potential yield of 57 units. The assessment defines *developable* sites as suitable, available and achievable, but states that specific information suggests that development could not come forward within 5 years (the availability is specified for a future date or is currently unknown, or the achievability of the site is unknown/marginal). Paragraph 68 of the NPPF also makes a clear distinction between deliverable and developable sites, with developable sites being intended for broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the development plan (in contrast to deliverable sites which are capable of meeting housing need in the short term).

Having regard to the above, there are key differences between the current proposal and the previously approved development on the adjoining site (which was approved prior to the current version of the Neighbourhood Plan). This previous approval would therefore not set any form of precedent to the current proposal.

#### Landscape and Visual Impacts

With regards to visual impact, in contrast to the Bayards site, the approved development at Fontwell would be well related to the settlement and would not encroach significantly from the established built development. This is largely on account of its more modest scale, along with its configuration and proximity to built development.

Policy EH1 of the Neighbourhood Plan sets out a number of criteria for the consideration of development proposals in cases where there is shown to be a demonstrable shortfall of housing land supply which include:

- i. the scale of development is proportionate to the housing supply shortfall and local housing needs of the Parish and can be deliverable in the short term.
- ii. the development will protect the local landscape character and wider setting of the South Downs National Park and support the dark skies policy;
- iii. the proposal is sensitively designed and located and respects the character and built heritage of neighbouring settlements.

The site at Bayards is more closely associated with the open countryside which lies to the west of Fontwell, and the overriding character of the local area is defined by a patchwork of small fields with tree lined boundaries. It forms part of the gradual transition from the small settlements to the east towards open landscape and larger scaled fields to the west. Dwellings in the immediate area are typically dispersed, which contributes to the semi-rural character of the locality. It is considered that the proposed development of 69 dwellings would result in an over-intensive use of the site that would be detrimental to the semi-rural character of the surrounding area.

As highlighted within Paragraph 4.10 of the Arun District Council Interim Housing Statement (February 2021) sites should be of a scale and density appropriate to the adjoining settlement. Smaller scale sites, that provide for the gradual growth of settlements, are more likely to be suitable than sites that would significantly change the character of a place. The Parish Council therefore consider that this proposal would be contrary to this guidance.

### Biodiversity

The Parish Council have a number of concerns in relation to the Ecological Impact Assessment (EcIA) 13 September 2021 by Lizard Design and Ecology. These relate to the nature and extent of survey work undertaken along with some inconsistencies.

Section 3.1.1 of the assessment states:

*“Due to the poor-quality habitats on site and immediately adjacent a full protected species search from SxBRC was not considered proportionate to the predicted impacts of the scheme.”*

The Parish Council consider that this does not conform to Section 1.14 of the Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines for Ecological Impact Assessment (2018), which advocates acquiring this information to enable determination of the predicted impacts. Furthermore, it is necessary for the assessment to consider the “in combination effects” of other development projects when predicting the ecological baseline conditions (see 3.7 of the Guidelines for Ecological Impact Assessment (2018)).

The reptile survey has been conducted mostly during July, contrary to Government guidance <https://www.gov.uk/guidance/reptiles-protection-surveys-and-licences>, which states that survey during July to August and November to February should be avoided. Furthermore, Par. 3.4.1 of the EcIA refers to using 35 refugia, but only indicates 30 refugia on Figure 002. The placement of the refugia shown in Fig. 002 suggests a greater emphasis was given to north-facing (shaded) parts of the site, which is not the best habitat location to find basking reptiles. No references for reptile survey methodology or best practice have been cited or included within the References section of the EcIA report, contrary to CIEEMs Guidelines for Ecological Report Writing( Second Edition) (2017) <https://cieem.net/resource/guidelines-for-ecological-report-writing/>.

No bat survey has been undertaken for the site itself (which also includes a number of trees along the west boundary). It is important to recognise also that woodland is not the only valuable feature when considering potential foraging / commuting sites. Bats require a landscape scale approach to their conservation as they commute several kilometres between their roost and feeding areas. Connectivity of

structurally diverse habitat is a key requirement for the species and a range of grassland, wetland, scrub/hedgerow and wooded areas provides ideal habitat for an abundance of insects.

In the absence of any recent survey work on the site it would not be possible to ensure the implementation of any informed or meaningful mitigation or compensation measures (which will need to be integral to the design of any development proposal).

In summary, the view of the Parish Council is that more survey work is needed for both reptiles and bats before any Planning Application could be considered.

Having regard to the concerns over the extent of ecological survey work undertaken, it would not be possible to accurately establish the baseline situation in relation to the ecological value of the site.

The Parish Council's view is therefore that statements regarding Net Biodiversity Gain on the site are unsupported and cannot be based on a simple algorithm which does not take account of the whole spectrum of biodiversity (particularly in relation to the baseline situation).

### **Affordable Housing**

Whilst affordable houses have been included as part of the scheme and are intended to be distributed throughout the development, the Parish Council have concerns that the applicant does not appear to have engaged with the Aldingbourne, Barnham and Eastergate Community Land Trust, ABE CLT regarding affordable housing numbers. It would be important to ensure an appropriate housing provider would be willing to take on the proposed units.

### **Community Food Production**

Policy LC4 of the Neighbourhood Plan states that proposals that contribute to the provision of allotments either by making land available for those purposes or by means of financial contributions through legal agreements or (when adopted for the District) the Community Infrastructure Levy, will be supported. This is to meet Objective 5b which seeks to promote opportunities for community food production in recognition of the fact that there is currently limited allotment provision within the Parish and a waiting list exists. As stated within the plan, allotments are a place of social connectivity and not only provide opportunities to grow food but also contribute to local wildlife habitat and improved health and fitness. The Parish Council therefore have concerns that no allotments had been allocated in respect of this site and the proposal would therefore fail to meet the objectives of the Aldingbourne Neighbourhood Development Plan.

### **Conclusion**

In conclusion, the Parish Council object to the proposed development on the grounds that it would fail to meet the requirements of both national and local policy. In particular, the Aldingbourne NP seeks to protect the countryside and retain the visual separation and important views between the different settlements of the Parish by resisting development outside the built-up area boundary, identified on Map E of the Plan. The application site is located outside the built-up area boundary and therefore the proposed scheme is contrary to policy EH1.

Having regard also to the potential landscape harm identified, it is concluded that the adverse impacts of the proposal, particularly the conflict with the Aldingbourne NP, would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, including its policies on neighbourhood planning and housing supply.

Yours Faithfully

Liz Young  
Principal Planning Officer

CC. Aldingbourne Parish Council