

[REDACTED]

From: Aldingbourne Parish [REDACTED]
Sent: 13 February 2018 12:06
To: Richard Temple
Subject: Re: AL/115/17/OUT Wings Nursery

Dear Mr Temple
The Parish Councils full objection to this application is attached FYI
KInd Regards
Joanne Brown

On 22 January 2018 at 13:27, Aldingbourne Parish [REDACTED] wrote:
Dear Mr Temple

I am following up the Parish objections to this application which as you know are based on the policies of the ANDP.

The Parish Council, having just overturned decisions of the Planning Inspectorate and ADC in relation to development at Barnside in Hook Lane, is mindful that this site was originally approved for local housing in the first draft of its NDP, but it was removed on the advice of the Planning Inspector at the time.

So the objections to the application remain however the Council has not had the opportunity to engage in or be part of discussion regarding the S106 agreement.

I believe this has to be in place before determination of the application. Can you advise please.

Many thanks

Joanne Brown

Mrs Joanne Brown, ACIS

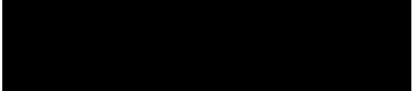
Clerk to Aldingbourne Parish Council



--

Mrs Joanne Brown, ACIS

Clerk to Aldingbourne Parish Council



Aldingbourne Parish Council
Red House
100 Middleton Road
Middleton-on-Sea
PO22 6DL

13th February 2018

Dear Mr Temple

Re: Application for Outline Planning for erection of 55 No. dwellings, sustainable drainage measures, public open space, children's play area, landscaping & all other associated works (AL/115/17/OUT)

At: Wings Nursery, Lidsey Road, Aldingbourne, PO20 3SU

Further to the Parish Council's objection to this application I am instructed to provide further detail as follows;

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

'This application is a departure from the Development Plan'

1. Background

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.

2. Proper Approach to determining this Planning Application

The statutory test for decision-making

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

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

- The 'Saved' Policies of the Arun Local Plan 2003 (Adopted April 2003)
- Aldingbourne Neighbourhood Development Plan (ANDP, 2014-2024) (Made October 2016)

The emerging Local Plan 2011-2031

ADC are in the process of producing a new Local Plan (the eALP). Following the resumed Hearing Sessions of the Examination in Public (held in September 2017), the Council are now consulting on the Main Modifications. The consultation will run for a period of six weeks closing at 5pm on 23rd February 2018.

The current Housing Land Supply Position

The Council published a Housing Land Supply update in March 2017 based on provisional data. This update concludes that the Council have a HLS of 2.07 years. There has not been any update since then and there have been a number of consents granted for major residential development which should be taken into account. It is therefore anticipated that the HLS position has improved since this publication and Arun District Council should seek to determine an accurate HLS position for the purposes of determining this planning application, given that the extent of any shortfall is a material consideration (as discussed below).

Weight to be afforded to the development plan policies

It is considered unlikely, even taking into account the recent appeal decisions, that the Council has a 5YHLS. Therefore, at this present time, in accordance with NPPF Paragraph 49, 'relevant policies for the supply of housing' are out-of-date. For this reason alone, the NPPF Paragraph 14 tilted-balance is engaged. The 'relevant policies for the supply of housing' contained within the adopted and emerging development plan can therefore be considered 'out-of-date' by virtue of NPPF paragraph 49.

The meaning of '*relevant policies for the supply of housing*' in NPPF Paragraph 49 has proved somewhat controversial, with different meanings being favoured in different cases. The issue has recently been resolved, however, by the Supreme Court in **Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Borough Council** [2017] UKSC 37, in which the Court favoured a narrow interpretation so that they embraced '*housing supply policies*' only [57], differentiating between '*relevant policies for the supply of housing*' (the actual words of the NPPF) and '*relevant policies affecting the supply of housing*' (which the Court of Appeal had wrongly interpreted those words to mean).

The Supreme Court judgement confirms that where the tilted-balance is engaged the weight to be afforded to development plan policies which have a 'restricting' impact on the supply of housing 'might need to be reduced if the housing objectives were to be fulfilled' but the weight to be afforded is ultimately a matter for the decision maker [66] and [83]. Relevant considerations (example tests), in respect of weight to be afforded to restrictive policies, are set out at [47] of **Suffolk Coastal DC v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East BC** [2016] EWCA Civ 168.

The Supreme Court's judgment therefore differs from that of the Appeal Court. However, nothing in the Supreme Court's decision questions Lord Justice Lindblom's judgment, at [47] where he identified that the following factors may be highly relevant to the attribution of weight in the tilted balance exercise:

- The extent of the shortfall;
- The action being taken to address it (how long any deficit is likely to persist and the prospect of development coming forward to make it up); and
- The particular purpose of the constraint policy (and whether it is consistent with the NPPF).

These three examples are all relevant when considering the weight to be afforded to development plan policies in the context of a HLS shortfall in the case of this planning application. It is the responsibility of the District Council to establish the actual extent of any HLS shortfall and this should take into consideration the recent planning permissions granted by both the Council and the

Department for Communities and Local Government (on appeal). In respect of the second example, actions taken to address the shortfall, the eALP is at an advanced stage, with the main modifications published for consultation in January 2018. The Applicant themselves (Planning Statement para 5.50) acknowledge that upon adoption of the eALP the housing land supply position will improve significantly, at the very least rising to 3.8 years. Finally, the consistency of the relevant Development plan policies with the NPPF is considered on an issue by issue basis below.

The Parish Councils ability to legally update its Neighbourhood Plan only came into force on 31st January 2018. The Parish Council has however resolved to undertake a review of its Plan (Council meeting 6/2/18)

2. Assessment

1. Principle of development

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. Neither of these policies are out-of-date within the meaning of NPPF Paragraph 49. However, these policies can be considered to have a ‘restricting’ impact upon housing development in the District and for this reason the weight to be afforded to them, in the context of a HLS shortfall, depends in part upon their consistency with the NPPF. It is considered that these policies are consistent with the fifth core principle at NPPF Paragraph 17 which states that planning should *‘take account of the different roles and character of different areas... recognising the intrinsic character and beauty of the countryside...’*. Furthermore, these policies are consistent with NPPF Paragraph 157 which states that Local Plans should *‘identify land where development would be inappropriate, for instance because of its environmental value...’*.

It is accepted that the tilted balance at NPPF Paragraph 14 is engaged by reason of the HLS shortfall. However, the judgement in **Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government, Hinckley and Bosworth Borough Council** [2014] EWHC

754 (Admin) at [186] makes clear that development plan policies do not require a cost/benefit balancing exercise in order for them to be consistent with the NPPF.

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, '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 the harm, and it can be demonstrated that no reasonable alternative sites are available'

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 as the two plans should be read together and the Applicant has not demonstrated that there are no reasonable alternative sites available. This policy is consistent with the NPPF for the same reasons as ALP Policies GEN2 and GEN3.

2. Affordable Housing

Whilst this planning application is an outline planning application, the Appellant has confirmed that the Proposed Development includes 33% affordable housing provision.

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 33% 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. Policy H4 does not have a restricting impact upon the supply of housing and can therefore be afforded full weight in the determination of this planning application.

Transport

WSCC Highways has objected to the Proposed Development. In a consultation response dated 4th January 2018 WSCC Highways object for the following reasons:

- 1: Substandard sustainable access at and from the development contrary to national and local planning policy and guidance
- 2: Failure to demonstrate a satisfactory junction design at the junction with A29 Lidsey Road
- 3: Increased traffic impact upon A29 Lidsey Road
- 4: Failure to consider the cumulative impact of the development with draft eALP Allocations

For these reasons it is considered that the Proposed Development conflicts with ANDP Policy GA1 on Promoting Sustainable Movement. This policy requires that development proposals improve walking and cycling routes and are located in places accessible to public and community transport. Based on the comments from WSCC Highways, the Proposed Development also conflicts with ALP Policy GEN4 which requires that new development: minimises demand for travel; does not materially add to existing congestion; and makes provision for safe and convenient pedestrian access.

None of these policies have a restricting impact upon the supply of housing and they are all consistent with policy contained within the NPPF. They can therefore be afforded full weight in the determination of this planning application.

In addition, an e-mail dated 09th January 2018 was sent from Phillip Russel (on behalf the Applicant) to Steven Shaw of West Sussex County Council Highways. The penultimate paragraph of this e-mail states as follows:

'The scheme has overwhelming support from the local community and has been identified in the neighbourhood plan. The highways refusal from Mr Townsend is the only outstanding matter and I am confident this issue can be resolved'

This is not an accurate representation of the current situation as there is no clarification in the application (or in a draft S106 agreement of how the development would benefit the local community. It is therefore not clear from this assertion. Whilst the development of a smaller scheme (30 homes) on this site was supported in a public consultation for the first draft of the ANDP on the basis that the parish had to provide 30 homes as affordable housing for local people, the parish was subsequently allocated 350 homes on an appeal and the policy of local homes for local people was withdrawn from the ADNP. The Parish understands that separate consultation by the developer had 2 letters of support and no objections. This may not be an accurate representation of the current situation and clearly the site is not allocated for housing in the ANDP.

3. Planning Balance and Conclusion

The titled-balance at NPPF Paragraph 14 is engaged by virtue of a HLS shortfall. The extent of that shortfall is not certain given the number of consents granted for major residential development since the Council provided an update on the HLS position in March 2017. Given that the titled-balance is engaged, the application should be approved unless the adverse impacts of the proposed development clearly and demonstrably outweigh the benefits when considered against the policies contained within the NPPF.

It is acknowledged that the social benefit of the provision of market and affordable housing provision in the context of a HLS shortfall can be afforded very significant weight. However, it should be noted

that the affordable housing provision of 33% is contrary to the requirements of ANDP Policy H4, which requires 40% provision. There would also be limited economic benefits associated with the development (new homes bonus, temporary construction jobs) and these can be afforded some weight, albeit they are not the main benefits of the scheme.

The harm associated with this proposed development is substantial. The principle of development is in clear conflict with the adopted Local Plan and the recently made ANDP. Even in the context of a HLS shortfall the weight to be afforded to the development plan policies can be determinative. These policies, although they have a restricting impact upon the supply of housing, are broadly consistent with the aims and objectives of the NPPF. This increases the weight which may be afforded to them.

Further harm has been clearly identified by WSCC Highways. Their comments concluded that: the sustainable access to the site is sub-standard; the design of the access with Lidsey Road is not satisfactory; there would be an increased traffic impact upon Lidsey Road; and the applicant has not undertaken a cumulative assessment of the proposed development with the draft allocations contained in the eALP. For these reasons it is considered that the Proposed Development would likely have an adverse impact upon the highway network and would therefore be contrary to both Local and National planning policy.

On balance therefore, it is considered that the benefits of the Proposed Development are clearly and demonstrably outweighed by the adverse impacts and planning permission should therefore be refused. Should the LPA wish to progress this application the Parish Council would wish to first clarify through a S106 what community benefits could be achieved and what contribution the development would make towards the provision of an affordable housing mix within the Parish and particularly the redevelopment of the Aldingbourne Community Sports Centre.

Yours sincerely

Mrs JKM Brown, ACIS

Clerk Aldingbourne Parish Council,