

Mr S. Davis
Planning Department
Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN175LF

Adams Hendry Consulting Ltd
Sheridan House
40-43 Jewry Street
Winchester
SO23 8RY

20 December 2021

Our Ref:
LY/APC/1823/2112

Your Ref:
AL/129/21/OUT

Project No:
APC/1823

Dear Mr S Davis,

**Re: Application in respect of Land adjacent to Woodgate Nurseries, Lidsey Road, Aldingbourne
(Application Reference AL/129/21/OUT)**

I make this representation 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, whilst it is noted that paragraph 3.3.2 of the Statement of Community Involvement states that an invitation email was sent to Aldingbourne Parish Council on 26 July 2021, this email was not received by the Parish Council. For this reason, they have not had the opportunity to review or comment on the proposals prior to submission.

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 (ALP) 2011-2031 (adopted July 2018) and the Aldingbourne Neighbourhood Plan 2019-2031 (adopted July 2021). Aldingbourne Parish Council reviewed its Neighbourhood Plan (NP) following the adoption of Policy H SP1 of the (ALP) which allows for additional non-strategic allocations (at least 1,250) to be made through emerging Neighbourhood Plans.

As a general point, the Parish Council is concerned that the parish is already experiencing the impact of large-scale developments in the area including the BEW, strategic allocation and that the necessary infrastructure to support this level of growth is not being provided in a timely manner. Existing services and facilities in the Parish are already operating over capacity. The Parish Council wish to highlight that infrastructure will be delivered in a timely way in order to mitigate the impact of development. Should the Council be minded to grant planning permission for the proposed development, then the Parish Council would expect that any requirements raised by West Sussex County Council Planning Services Division should be secured in full through a s106 to meet this requirement. The key issues raised by both Highways Authority and Highways England must also have been addressed by the applicant before the application is determined.

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 Local Plan. Policy C SP1 of the Arun District Local Plan, together with Policy EH1 of the Aldingbourne Neighbourhood Plan (Built up Area Boundary (BUAB)) explicitly state that new development on

land which lies outside the BUAB will not be permitted. The Neighbourhood Plan policy sets out a number of criteria for the consideration of new development proposals when there is a demonstrable shortfall in housing land supply:

- 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;
- iv. it is demonstrated through appropriate assessment that there would be no significant harm to biodiversity, including the roosting, feeding and commuting of bat species, or to bat species associated with the Singleton and Cocking Tunnels Special Area of Conservation (SAC) and Slindon Woods;
- v. the proposal is sustainably located and accessible to local facilities and services and sufficient capacity exists or can be provided to accommodate additional needs.

APC consider that criteria (i), (ii) and (iii) are not met which justifies the refusal of the application for the reasons set out below.

Housing 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. It is not considered this 'test' has been met. The Neighbourhood Plan policy closely reflects the requirements of Policy C SP1 of the Arun District Council Local Plan, which lists the various types of development which are considered acceptable in principle within the open countryside (including essential agricultural, horticultural and forestry development). Residential development is not included as one of the acceptable forms of development under this policy.

As of 2020, based upon the Authority Monitoring Report, the Council could demonstrate a 3.3 year housing supply. The applicant therefore 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 as a 5 year housing land supply cannot be demonstrated. However, the applicant has failed to have regard to Paragraph 14 of the National Planning Policy Framework States which 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

Criterion (a) is met) as the Neighbourhood Plan was made on 14 July 2021 (well within the prescribed two-year period). The Neighbourhood Plan also contains policies and allocations to meet its identified housing requirement and so criterion (b) is met. The Parish Council was required to allocate a minimum of 70 dwellings, in order to "future proof" its Neighbourhood plan. However, it has exceeded this requirement and two sites are allocated totalling 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 the Council has least a 3 year housing supply meeting the requirement of criterion (c). With regards to requirement (d), the Government Housing Delivery Test result 2019/2020 has been reviewed. The total number of homes required within Arun District over 3 years (from 2017 to 2020) was 3,092 homes. 45% of this requirement would be 1,391 homes, and delivery is shown as 1,879 homes over this period. Therefore, Arun District Council's housing delivery was at least 45% of that required over the previous three years and requirement (d) has been satisfied.

As all four criteria set out in Paragraph 14 of the NPPF have been met, Aldingbourne Parish Council consider that the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits.

The government has further stated that it 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 2021 where it was indicated that the 2021 Housing Delivery Test measurement would be calculated using data for the 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 (or biodiversity) should be set aside. 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 weight should still be given to the plan's housing policies.

Landscape and Visual Impacts

Criterion (ii) of Policy EH1 of the Neighbourhood Plan is not met as the development proposals fail to protect the local landscape character and wider setting of the South Downs National Park and support the dark skies policy.

Policy D SP1 of the ADLP further seeks to ensure all forms of development reflect the characteristics of the site and local area in their layout, landscaping, density, scale, massing and character (amongst other things). Similarly, criterion (c) of Policy H SP3 seeks to ensure rural housing developments would be appropriate to the area in terms of scale, form and character.

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. This document states that 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 site at Woodgate Nurseries is more closely associated with the open countryside than the built-up areas to the north and east. The immediate locality (the land which lies west of Lidsey Road) is of a distinctly different character to the land to the east and accommodates only sporadic development. The scheme would result in a significant increase in built development on the site owing to its significant incursion into open countryside to the south and would that be readily visible from the surrounding area. As such it would appear separate from rather than integrated with the built-up area of Westergate, disrupting the overall balance between open countryside and built up areas. In addition to these concerns, the configuration of the site has resulted in an awkward layout on account of the narrow projections to the north and north east and it is unlikely that any subsequent detailed design could remedy this. Key views into and out of the development also do not appear to have been identified or accommodated within the development.

Furthermore, domestic development and associated activity in the immediate area is low key with minimal external lighting. The proposal to provide 95 dwellings would significantly alter this balance, as a result of the impact of the dwellings themselves, the additional domestic enclosure, lighting, increased activity and parking. The spill of lights from open glass windows and sky lights often presents a greater source of light pollution than externally mounted lights and when judged against the current use of the site the proposal is likely to give rise to significant lighting impacts which would undermine the rural tranquillity and landscape character of the area contrary to Criterion (ii) of NP policy EH1. The requirements raised by West Sussex County Council in relation to the provision of street lighting at and around the point the site access junction where it emerges to Lidsey Road (and the potential need for removal of vegetation) adds further to these concerns.

For these reasons Aldingbourne Parish Council consider that the proposed development would be contrary to criterion (ii) of Policy EH1 of the Neighbourhood Plan and Policies H SP3 and D SP1 of the Arun District Local Plan.

Design and Layout

Criterion (iii) of Policy EH1 is not met as the development proposal is not considered to be sensitively designed and located or to respect the character and built heritage of neighbouring settlements.

Revisions to the National Planning Policy Framework, particularly paragraph 134(b), make clear the creation of high-quality, beautiful and sustainable buildings and places is fundamental to the planning and development process. Whilst the application is an outline submission, details have been included in relation to design and layout and it would therefore be appropriate to consider these in terms of their overall acceptability.

Alongside concerns over the awkward configuration of the site referred to above, the proposed layout would have a very limited degree of permeability with no clear hierarchy of routes and limited connectivity with the wider area. This would conflict with the criteria set out on page 45 of the Arun District Design Guide (2021) which seeks to ensure development would (amongst various criteria):

- Creates connections with the site's surroundings, promoting integration and permeability;
- Establish desire lines and a clear hierarchy of routes and spaces; and
- Create a user friendly layout for non-motorised users of all abilities.

The proposed layout incorporates many of the characteristics which page 51 of the Design Guide advises against including consistent road widths and bends, lack of hierarchy and legibility and awkward plot layouts with lots of leftover space. This has resulted in a relatively suburban layout with no sense of enclosure or strong building lines and would therefore also be contrary to guidance on pages 77, 78 and 79 of the SPD.

Parking spaces would appear to dominate building frontages and would not be well integrated. Furthermore, the Design Guide advises that rear parking courts (such as the proposed visitor parking area included within this proposal) would only be included as a last option (and would be small scale).

The proposal would largely be inward facing with rear garden areas adjoining the site boundary. This is clearly at odds with the guidance on page 93 of the Design Guide which seeks to ensure proposals would:

- Respond positively to their surrounding context and provide a clear and well defined external identity.
- Incorporate dwellings which would be outward looking, avoiding back fences abutting the countryside, in order to provide amenity for their residents and maintain a connection between a settlement and its surroundings.

Consequently, Aldingbourne Parish Council consider that the development would not be visually attractive due to the layout and number of dwellings. It would not be sympathetic to local character under the Framework. As a result, it would not create high quality beautiful and development and would also be contrary to the Arun Design Guide SPD (2021), Policy D SP1 of the Arun District Local Plan, NP Policy H1, criterion iii of NP Policy EH1 and also the National Design Guide (2021).

Other matters: Biodiversity

Paragraph 98 of Government Circular 06/2005 (Biodiversity and Geological Conservation) makes it clear that the presence of a protected species is a material consideration in assessing development proposals.

The submitted ecology report (section 3.9.1) acknowledges that the proposed development has the potential to result in disturbance to commuting and foraging bats but also recognises the potential to result in loss of habitat, killing, injury or disturbance to reptiles (common lizard, slow worm, grass snake and adder) which are also protected by UK Law.

Whilst it is recognised that various mitigation measures are referred to within the ecology report, local authorities should consider the three tests of a European Protected Species (EPS) License prior to granting planning permission. Failing to do so would be in breach of Regulation 9(5) of the Conservation of Habitats and Species Regulations (2010) which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

The first of the three tests is to establish whether there are imperative reasons of overriding public interest. Natural England guidance states that if a proposed development is in line with the development plan, it may meet this test. As has been set out above, the proposal is not in accordance with the policies of the development plan. The second test is that there must be no satisfactory alternative, including the option of not undertaking the development. In this case, there is no information to suggest here that alternatives have been considered (such as a scaled down proposal or undertaking development elsewhere).

The third and final test is that the maintenance and favorable conservation status of the species should be ensured. It is not clear in from the ecological survey whether or not this would be the case. Therefore, the Authority's Ecologist may need to consider this issue further.

In addition to this concern, the submitted ecology report does not make any reference to the extensive evidence base undertaken prior to the adopted of the NP. This includes very recent and extensive ecological survey work (Preliminary Ecological Appraisal August 2020 and Bat Activity Transect Report, October 2020) which record a number of species of conservation concern within the Parish. Of particular note, bat activity transect route 1 runs along the western and southern edge of the application site and the proposed development would encroach significantly towards these boundaries. Many bat species and other nocturnal wildlife are vulnerable to disturbance from artificial lighting. Any reduction in existing levels of artificial lighting will be beneficial to bats and the impacts of the proposed development upon these commuting corridors (which will become fragmented as a result of the proposals) have not been fully addressed.

Aldingbourne Parish Council consider that the application has not sufficiently addressed the issue of protected species. No imperative reasons of overriding public interest have been identified that would justify the harm that could arise to protected species were the proposed development to proceed. The proposed development would therefore be contrary to ENV DM5 of the Arun District Local Plan, paragraph 180 of the NPPF and also the requirements of the Conservation of Habitats and Species Regulations (2010).

Loss of Agricultural Land

Section 3.4.1 of the Aldingbourne Neighbourhood Plan describes the agricultural land within the Parish as being the most productive farmland within the District, with significant areas within the south and north of the Parish being classified as either Grades 1 or 2 agricultural land. The application site is no exception and (based upon the information which accompanies the application) and is classed as Grade 2 (very good quality). Based upon DEFRA guidance, this would indicate potential for a wide range of agricultural and horticultural crops with a generally high yield.

Core Objective 2a of the Neighbourhood Plan seeks to protect high quality agricultural land and Policy EH3 reflects this in stating that proposals for development on the 'best and most versatile' agricultural land will be resisted unless the development would support diversification of an agricultural enterprise and the need for the development clearly outweighs the harm. Policy SO DM1 of the Arun District Local Plan similarly seeks to restrict non-agricultural development on high quality agricultural land unless (amongst other things) the site is demonstrated to be the best and most sustainable option (having regard to land quality, ecosystem services, infrastructure and proven need) and the proposed development meets the requirements of the countryside policy and/or equine development policy. Where development is permitted, the applicant would need to include sustainability and options appraisals.

In considering these criteria, the development proposal would not relate to any form of agricultural diversification and whilst an agricultural land assessment has been included with the application, there is no information to demonstrate that the site is the best and most sustainable option. Having regard to this, the conflict with the other aspects of the development plan, Aldingbourne Parish Council consider that there is no demonstrable need for the development which would outweigh the loss of a significant amount of Grade 2 agricultural land. The proposal would therefore be contrary to Policy EH3 of the Aldingbourne Neighbourhood Plan, Policy SO DM1 of the Arun District Local Plan and paragraph 174 (b) of the National Planning Policy Framework.

Highways

Based upon the information provided it is not clear how the proposed access will interact with the proposed junction arrangement for the Barnham, Eastergate, Westergate (BEW) development on the eastern side of Lidsey Road and in the absence of this information it would not be possible to rule out harmful impacts upon the safety and convenience of users of the adjoining highway, contrary to Policy T SP1 of the Arun District Local Plan.

Additionally, it is not clear to what extent the proposal would accommodate cyclists within the proposed development. This is a key issue given the very limited provision for cyclists in the locality at present, and clearly contrary to the guidance set out within page 63 of the Arun District Council Design Guide, along with paragraph 112 of the NPPF 2021 which together state that new development should prioritise the needs of pedestrians, cyclists and public transport over those of motorists.

Decision Precedents

The applicant refers to 3 previous planning decisions in the locality. Having reviewed these, it is evident that these decisions are not directly comparable to the current application and would therefore not set a direct precedent for approving the scheme. Both application AL/21/20/OUT and AL/32/19/OUT were determined prior to the final adoption of the Aldingbourne Neighbourhood Plan (which was described as being of limited weight at the time of both applications). In the case of application AL/21/20/OUT, this application effectively infills a gap within a continuous line of built up frontage to the east of Lidsey Road (between a caravan site, a commercial site to the south and residential development to the north). In considering character and design the officer report concluded that *"the site is surrounded on three sides by development with houses to the north, a caravan park to the east and industrial buildings to the south."* In contrast, the land to the west of the Lidsey Road is more dispersed and in the case of Woodgate Nurseries the proposal would project significantly into open countryside. Furthermore, Aldingbourne Parish Council confirmed that they supported the development on the grounds that it was consistent with emerging Aldingbourne Neighbourhood (Review) Plan. Similarly, the approved scheme under reference AL/32/19/OUT which lies to the north of the site, is bounded by residential properties to the south and is more closely associated with the built up area of Westergate. It was also noted that the emerging NP allocated the site for 55 dwellings subject to compliance with other plan policies and a contribution being made to the Aldingbourne Sports and Community Centre.

With regards to application BE/63/17/OUT, this development does not lie close to the application site and is associated with a different settlement which falls outside the administrative area of Aldingbourne Parish. Additionally, the relevant Neighbourhood Plan (Bersted Neighbourhood Plan (BNDP)) was made (adopted) in November 2014 on the basis of the saved policies in the ADLP and the draft policies in the 2014 publication version of the emerging Arun Local Plan (eALP). The case officer report stated that *"Both of these documents predate the version of the eALP which was tested at Examination and subsequently revised into the modified version. Therefore, only limited weight can be given to the conflict with the BNDP to protect the countryside, as the context within which the BNDP was prepared has significantly changed"*. Additionally, the reported housing land supply figure for Arun District was only around 2.07 years at the time of the decision. This previous approval was therefore granted under a very different policy context and on a site which does not lie close to the current proposal at Woodgate Nurseries.

Affordable Housing

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.

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 contrast to the earlier decisions referred to by the applicant, this application is being considered against the policies of an up to date Neighbourhood Plan. As such there is no demonstrable shortfall in housing supply having regard to both the Neighbourhood Plan and paragraph 14 of the NPPF. The NPPF advises that the adverse impact of allowing development that conflicts with a Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits and this reason alone is therefore considered sufficient to refuse the application.

Notwithstanding this, APC also draw attention to Neighbourhood Plan Policy EH1 which is in place to deal specifically with applications where there is a shortfall in housing land supply. It has been demonstrated above that the proposal would fail to meet the criteria (i), (ii) and (iii) set out under this policy with harm to local landscape character and the character and built heritage of the neighbouring settlements as a result of poor design. It also fails to meet the requirements of ALP Policies D SP1 and HSP1. There is further potential adverse biodiversity impacts and the loss of Grade 2 agricultural land contrary to relevant planning policies in the ALP.

In considering the overall planning balance, the harms identified above would significantly outweigh any limited benefits which could be perceived to be delivered by the development which justify the refusal of this outline application contrary to Neighbourhood Plan Policies EH1, H1 and EH3, Local Plan Policies C SP1, D SP1, H SP3, ENV DM5 and SO DM1 and the Design Guide Supplementary Planning Document.

Aldingbourne Parish Council therefore contend that the outline application should be refused.

Yours Faithfully

Liz Young
Principal Planning Officer

CC. Aldingbourne Parish Council