

Recommendation Report for Planning Permission

REF NO: AL/84/19/PL

LOCATION: Aldingbourne Park
Hook Lane
Aldingbourne
PO20 3YR

PROPOSAL: Application for removal of conditions 1, 2, 3, 4 & 5 imposed on planning reference AL/93/86 relating to timescale, number of caravans, electric lines, site licence & hedges

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This is an application under Section 73 of the Town and Country Planning Act 1990 (determination of applications to develop land without compliance with conditions previously attached). This sets out that:

"(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

The conditions in question are as follows:

(1) The development hereby permitted shall be begun before the expiration of five years from the date of this permission. Reason: To comply with Section 41 of the Town and Country Planning Act 1971.

(2) The number of caravans stationed on the site shall at no time exceed 33 in total. Reason: To avoid an overcrowded appearance and to secure satisfactory standards of space and amenity.

(3) Notwithstanding the provisions of the Town and Country Planning General Development Orders 1977 to 1987, no

electric service lines shall be erected or placed on the application site above ground level without the prior permission in writing of the Local Planning Authority. Reason: To enable the Local Planning Authority to exercise control in the interests of visual amenity.

(4) Notwithstanding the provisions of the Town and Country Planning General Development Orders 1977 to 1987, no works constituting development required by the condition of a site licence for the time being in force under Part 1 of the Caravan Sites and Control of Development Act, 1960 shall be commenced without the prior approval in writing to be undertaken within 3 months of the date of this permission to the satisfaction of the Local Planning Authority. Reason: To enable the Local Planning to retain control and secure a satisfactory development of the site.

(5) The existing boundary hedges shall be retained in the present form, with further planting in accordance with a scheme to be submitted to and approved by the Local Planning Authority within 3 months from the date of this permission. Reason: In the interest of visual amenity.

BOUNDARY TREATMENT

Mixed timber fencing supplemented by hedging particularly along the Hook Lane frontage.

SITE CHARACTERISTICS

Existing long established residential mobile home park currently comprising of 33 mobile homes each with parking spaces and small private gardens. Access from Hook Lane.

CHARACTER OF LOCALITY

Predominantly residential with another residential mobile home park to the west and bricks & mortar residential houses to the east and north. Railway line to the south with horticultural site beyond. There is a post office/shop, public house and bus stops a short walk to the east on Lidsey Road.

RELEVANT SITE HISTORY

AL/93/86

Change of use from holiday to full residential use

ApproveConditionally
29-07-87

Planning application AL/93/86 granted planning permission for the site. Application AL/91/19/PL refers to the adjoining site for which there is a similar application in for determination.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Aldingbourne Parish Council

Objects to this application on the grounds that the existing conditions seem reasonable and, therefore,

sees no reason to change the regularisation.

COMMENTS ON REPRESENTATIONS RECEIVED:

Planning and (caravan site) licensing are separate regimes and that any existing conditions on the site licence will be unaffected by the result of this planning application.

CONSULTATIONS

Environmental Health
 WSCC Strategic Planning
 Natural England
 South Downs National Park
 Network Rail
 Environmental Health

CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND - No comments to make on this application.

NETWORK RAIL - No objections to the proposals.

WSCC HIGHWAYS - No objection.

- Hook Lane is a C-classified road subject to National Speed Limits;
- Only condition 2 is of interest to the Highway Authority;
- The site licence secures adequate standards of space and amenity to prevent overcrowding and as it also restricts numbers, it is not anticipated that the removal of condition 2 would enable a significant increase in caravan numbers;
- Therefore the proposal will not result in a severe intensification of use of the site access or have an unacceptable impact on highway safety.

ADC ENVIRONMENTAL HEALTH - No objections/comments re removal of conditions 1, 3, 4 & 5 but condition 2 should be retained on the grounds of avoiding an overcrowding appearance, visual amenity and in securing satisfactory standards of space with regard to amenity.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The objection of Environmental Health is also noted but as the conditions of the site licence will be unaffected, there will still be sufficient control on the site to avoid overcrowding and maintain appropriate standards of visual and residential amenity.

POLICY CONTEXT

Designations applicable to site:

Outside the Built Up Area Boundary;
 Flood Zone 1 (low risk);
 Lidsey Treatment Catchment Area;
 Area of Special Control of Adverts;

Within 12km of Singleton and Cocking Tunnels Special Area of Conservation; and Class C Road.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
ENVDM4	ENV DM4 Protection of trees
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
TSP1	T SP1 Transport and Development

Aldingbourne Neighbourhood Plan 2016 POLICY EH1 Resist development outside

Aldingbourne Neighbourhood Plan 2016 POLICY EH6 Protection of trees and hedgerows

Aldingbourne Neighbourhood Plan 2016 POLICY GA3 Parking and new development

Aldingbourne Neighbourhood Plan 2016 POLICY H3 Housing density

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The relevant policies of the Aldingbourne Neighbourhood Development Plan are referred to in this report.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"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."

The proposal is considered to conflict with the Development Plan policies in that has the potential to result in more residential dwellings in the countryside.

OTHER MATERIAL CONSIDERATIONS

Notwithstanding the conflict with the Development Plan, it is material that when assessed against the 6 condition tests (para 55 of the NPPF & paragraph: 003 (reference ID: 21a-003-20190723) of the PPG),

the conditions are either not appropriate or no longer relevant/necessary and should therefore be removed.

Paragraph 55 of the NPPF states that: "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects".

CONCLUSIONS

Principle

The caravan park lies outside (albeit adjacent to) of the defined settlement boundary (built up area boundary or BUAB) as shown within the ALP and therefore falls within the countryside. ALP policy C SP1 "Countryside" states that outside of the defined BUAB, development will only be permitted where it is for a specific type of development.

The proposal seeks to make changes to the existing permission which could lead to a greater number of residential mobile homes on the site and this does not fall into any of these categories and the proposal is therefore contrary to the countryside policy in the ALP.

The BUAB in the ANDP is the same as in the ALP and policy EH1 states development on sites outside of the BUAB which do not accord with the ALP policy will be resisted unless they are for essential utility infrastructure, where the benefits outweigh any harm, and it can be demonstrated that no reasonable alternative sites are available. In respect of policy EH1, it is not considered that this proposal leads to noticeable harm to the character of the area and clearly it is not relevant to consider alternative sites.

Highway Safety

Policy T SP1 seeks to ensure that development provides safe access on to the highway network and explains how the development has been designed to create safe and secure layouts for traffic, cyclists and pedestrians. Paragraph 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should also be had to para 109 which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

West Sussex Highways acknowledge that as a result of the proposal there may be an increase in the number of homes on the site but they do not consider this to be significant and therefore, there will be no severe intensification of use of the site access or an unacceptable impact on highway safety. There is therefore no conflict with planning policy on highway safety.

Parking

ANDP policy GA3 states that development proposals must provide adequate parking in accordance with the standards adopted at the time. The Arun Parking Standards Supplementary Planning Document (SPD) does not contain any standards specific to mobile homes but 1-3 bed residential dwellings in this location would require 2 spaces each.

The Site Licence specifies that at least 1 parking space is to be provided and as such typically mobile homes only provide 1 space to the side of the home. Aldingbourne Park also provides a small amount of visitor parking.

Whilst technically there is conflict with the Parking Standards SPD and by connection, ANDP policy GA3, it is not considered that this conflict attracts any great weight as any increase in new homes will only be small and as the site is located in a sustainable location adjacent to the BUAB and within only a very short walk of a shop, pub and bus stops. Furthermore, there is no evidence either on site or from WSCC Highways of any existing parking issues associated with the current levels of parking at the site.

Trees

ALP policy ENV DM4 states development will be permitted where it can be demonstrated that trees contributing to local amenity will not be damaged or destroyed. ANDP policy EH6 states damage to trees and hedgerows of amenity value will only be permitted unless the need for, and benefits of, development in that location clearly outweigh the loss. The hedge is considered to have amenity value to the streetscene and as such, any proposal to remove the boundary hedgerows would be contrary to these two policies.

Density & Visual Amenity

ALP policy D DM1 requires that the density of new housing make efficient use of land whilst maintaining character and local distinctiveness. ANDP policy H3 states that the density of new development shall be appropriate to its location by virtue of size, siting and relationship to existing properties.

Regardless of whether this proposal results in additional homes being added to the site, there will be no real harm to the character of the area or the streetscene as the homes are all a set height (single storey) and any new homes added to the site are not likely to result in a significant increase in density or overcrowding as the site licence conditions must still be adhered to:

- Minimum of 6m between any mobile homes and between mobile homes & any buildings;
- Minimum of 3m between a mobile home and a site or highway boundary

OTHER MATERIAL CONSIDERATIONS:

The above discussion sets out that any future increase in the number of mobile homes at the site or remove the boundary hedges will be in conflict with development plan policies in respect of development in the countryside and the protection of amenity trees/hedges. However, it is material that paragraph 55 of the NPPF states that:

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

Paragraph 031 (reference ID: 21a-031-20180615) of the Planning Practice Guidance states that in deciding an application to remove conditions, the local planning authority must only consider the disputed condition/s that are the subject of the application and is not allowed to re-consider the whole application.

The applicant considers that the conditions in question no longer meet the tests as set out in paragraph 55 and should therefore be deleted. The applicants arguments are as follows:

Condition (1) - the condition no longer serves a useful purpose as it has already been complied with.

Condition (2) - the condition is not necessary, relevant or precise:

(a) Necessary: the site licence controls the practical numbers of caravans that can be achieved on a mobile home site by reference to distances from each caravan to other features such as boundaries, roads and other caravans and the densities which can be achieved. The site licence gives an adequate level of control to prevent overcrowding and secure appropriate standards of space and amenity for residents.

(b) Relevant: The site has the benefit of a planning permission for residential mobile homes and the ongoing control of the site should only need to be controlled by the site licence.

(c) Precise: The exact meaning of what this condition was trying to control is not precise. Caravan sizes have grown over the years to encompass both single and twin units. The impact of 33 small units compared with 33 twin units is clearly different, as would any mixture of unit sizes.

The applicant also notes that Arun DC previously accepted that such a condition on numbers of homes was not necessary at the Marigolds Caravan Park site (application reference BE/46/19/PL).

Condition (3) - the condition is unreasonable and unnecessary as it adds an additional layer of control for electric service/telecommunication providers which is not applicable to any other land or properties on Hook Lane (noting the longstanding presence of telecommunications wires on poles along Hook Lane).

Condition (4) - the condition is imprecise as it is unclear whether it is intended to give a control only for three months from 29th July 1987 or to permanently remove permitted development rights.

Condition (5) - the condition is imprecise as it does not define what the present form of the hedgerow was in 1986. It is not clear whether the landscaping scheme was ever submitted within the prescribed 3 month period and regardless, the landscaping scheme element does not go on to state any further requirements, such as a replanting or retention element.

ASSESSMENT OF CONDITION TESTS:

Condition (1) - whilst it is unusual for an application to seek to remove the standard time limit condition, it is clear that the condition no longer meets the 6 tests for the imposition of conditions in that it is no longer necessary and as such, there can be no objection to its removal.

Condition (2) - it is agreed that the condition is not necessary as the number of caravans on the site is separately restricted by the conditions of the site licence and whilst this may allow for an increase in the number of homes (such as with the replacement of larger twin units with smaller single units should units become unoccupied), the increase is unlikely to be significant. Further, this approach does indeed reflect that taken with respect to the Marigolds site granted in September 2019.

Condition (3) - it is agreed that this condition is unreasonable and unnecessary for the reasons set out by the applicant.

Condition (4) - it is agreed that there are issues with the precision of this condition such that it may no longer be enforceable. Furthermore, it is unreasonable to require a planning permission every time the park needs to carry out repairs or maintenance to roads, paths and mobile home hardstandings.

Condition (5) - There is a letter on the file for AL/93/86/ from the then applicant to Arun District Council that states "We confirm receipt of the above consent and, following our discussions with your officers regarding Condition No. 5 of that consent, we confirm that you will accept strengthening of the boundary hedge in satisfaction of the condition". However, there is no written response from Arun DC or any details of how the hedge was to be strengthened. Therefore, there is no clear evidence that the

condition was formally discharged. Notwithstanding, it is agreed that there are issues with the precision of this condition concerning what the form of the hedgerow was in 1986 (there is no evidence on the file to clarify this) and also that beyond the initial requirement for the approval of a landscaping scheme within 3 months, the condition is no longer necessary. The condition is also now unenforceable as there is no evidence that it was ever complied with.

SUMMARY:

It is considered that in each case, the condition in question fails to meet all of the 6 tests. As noted above, the PPG is clear that in deciding an application to remove conditions, the local planning authority must only consider the disputed condition and not reconsider the wider planning situation. On this basis, it is considered that the non-compliance with the 6 tests is capable of allowing for a decision to be taken other than in accordance with the Development Plan and this outweighs any conflicts with development plan policy.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 No hedgerow currently growing on the Hook Lane frontage of both Beechfield and Aldingbourne Parks shall be damaged, uprooted, felled, topped or lopped without the prior written consent of the Local Planning Authority. Any hedgerow removed without such consent or which becomes severely damaged or seriously diseased or dying in the future shall be replaced with a hedgerow of such size and species as may be agreed with the Local Planning Authority to ensure boundary landscaping is retained in perpetuity.

Reason: To ensure the retention of existing screening vegetation important to the visual amenity of the streetscene in accordance with policy D DM1 of the Arun Local Plan.

- 2 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.