



Woolf Bond Planning
Chartered Town Planning Consultants

Our Ref: DB//7848

21st May 2021

Planning Department
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

Dear Sir/Madam,

LAND AT POUND PLACE, ROUNDSTONE LANE, ANGMERING, BN16 4PP

**SECTION 73 APPLICATION TO REMOVE CONDITION 14 OF PLANNING
PERMISSION A/3/21/PL**

On behalf of my Client, Savista Developments, please find enclosed a s.73 Application to remove Condition 14 of planning permission A/3/21/PL that was granted on 9th April 2021 which permitted:

Erection of a 74-bed care home (C2 residential institution) with car parking, landscaped gardens & access from Roundstone Lane. (resubmission following A/9/19/PL).

This application is accompanied by the following documents:

- Application Form;
- A/3/21/PL Decision Notice;
- Approved Site Layout Plan (Drawing No. 1388 P-002); and
- Site Location Plan (Drawing No. 1388 000A)

Preamble

This application seeks the removal of Condition 14 of planning permission A/3/21/PL which states as follows:

Prior to occupation the applicant shall provide a footpath along the site frontage with Roundstone Lane in accordance with details to be submitted to and approved by the Local Planning Authority. The footpath shall remain in place as per the agreed details in perpetuity.

Reason To ensure that the site is satisfactorily linked with adjacent sites in accordance with the original Masterplan for the area and policies DDM1(10) of Arun Local Plan.

The condition is very similar to a condition suggested as part of the appeal following the refusal of a planning application for a 64 bed care home on the same site with the same access arrangements. The suggested condition was as follows:

Prior to occupation the applicant shall provide a footpath along the site frontage with Roundstone Lane in accordance with details to be submitted to and approved by the Local Planning Authority.

The suggested condition was considered during the appeal, the outcome of which, together with the reasons why the condition should be removed are discussed below.

Reasons for Removal & Planning History

As demonstrated below the reasons for removing condition 14 are twofold. These are listed below:

- i. Lack of justification for the footpath; and
 - ii. Inability for the path to connect to a northern connection point.
- i. Lack of justification for the path.

Before considering the merits of this s.73 application it is necessary to refer briefly to the planning history. An application (Reference A/51/18/PL) for a 64 bed care home was made in April 2018. This was refused on 15th November 2018 for three reasons relating to size, scale, character and appearance of the care home and the lack of affordable housing. This was subsequently appealed and heard by way of a Hearing that was held on 8th October 2019.

Following the Hearing the Inspector allowed the appeal by way of a decision letter dated 31st October 2019.

As part of the appeal the Council suggested a total of 17 conditions. Condition 17, which is set out above, first proposed the frontage footpath. The Inspector's assessment of the suggested conditions is set out at paragraphs 24 to 27 of the appeal decision.

Regarding condition 17 the Inspector states as follows at paragraph 27:

"...I was asked to consider the use of a condition to secure a footpath link on the site frontage. Whilst this would be desirable, I have no evidence and heard nothing at the hearing that satisfied me that this would be necessary and that without it planning permission would be refused. As such I do not consider a condition seeking this would be reasonable."

It is clear that from the above there is no evidence to suggest that the proposed footpath, the subject of the condition is either necessary or reasonable; and as stated by the Inspector that without the path the scheme would have been considered unacceptable in planning terms.

Turning to the guidance on the use of conditions, paragraph 55 of the NPPF states as follows:

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.* (My emphasis)

Additional guidance is set out at “paragraph: 003 Reference ID: 2a003-20190723” of the NPPG which states **“These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply. See also guidance on the use of model conditions.”** (My emphasis)

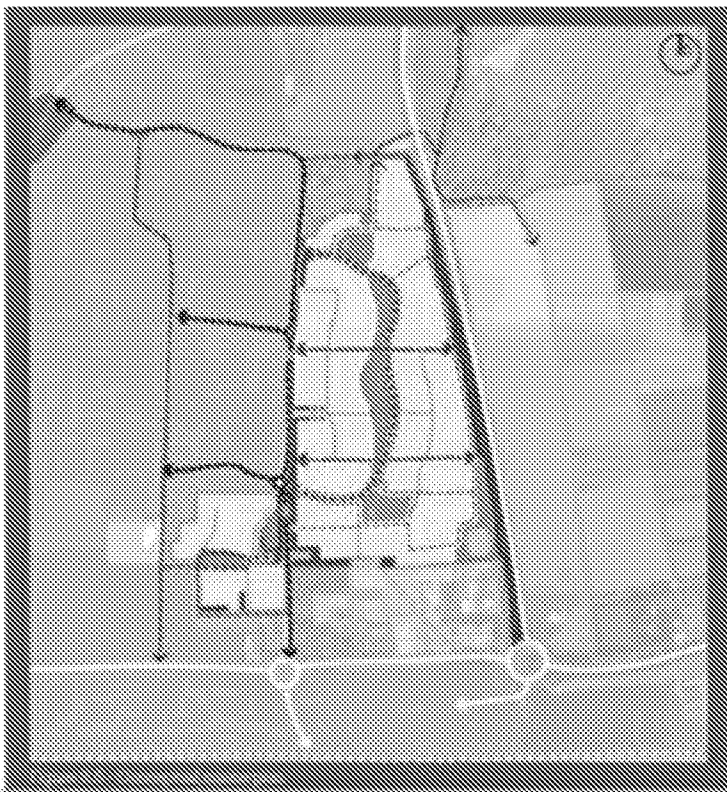
The NPPG is clear that *all conditions that a Local Authority wish to impose have to satisfy each of the six tests set out at paragraph 55 of the NPPF*. As demonstrated by the lack of evidence from the Council, and as confirmed by the Inspector, the proposed condition is neither necessary nor reasonable. On this basis the condition should be removed as it fails the six tests set out in the NPPF.

ii. Lack of northern connections.

Before considering the relationship of the site with the surrounding residential development it is necessary to consider the reason for the condition which is as follows:

Reason: To the site is satisfactorily linked with adjacent sites in accordance with the original Masterplan for the area and policies DDM1(10) of Arun Local Plan.

The original masterplan shows no proposed pedestrian link on the eastern side of Roundstone Lane. The document quite clearly and rightly relies upon the footpath on the western side of the road.



Angering Visioning Brief Master Plan Figure 6.5

The Masterplan on the Council's website appears to simply contain the Site Layout drawings to the individual sites that make up the wider Angmering South and East Strategic Allocation. For the application site the Masterplan shows the site as below (without the footpath) as follows:

A/9/19/PL Layout Plan - Pound Place

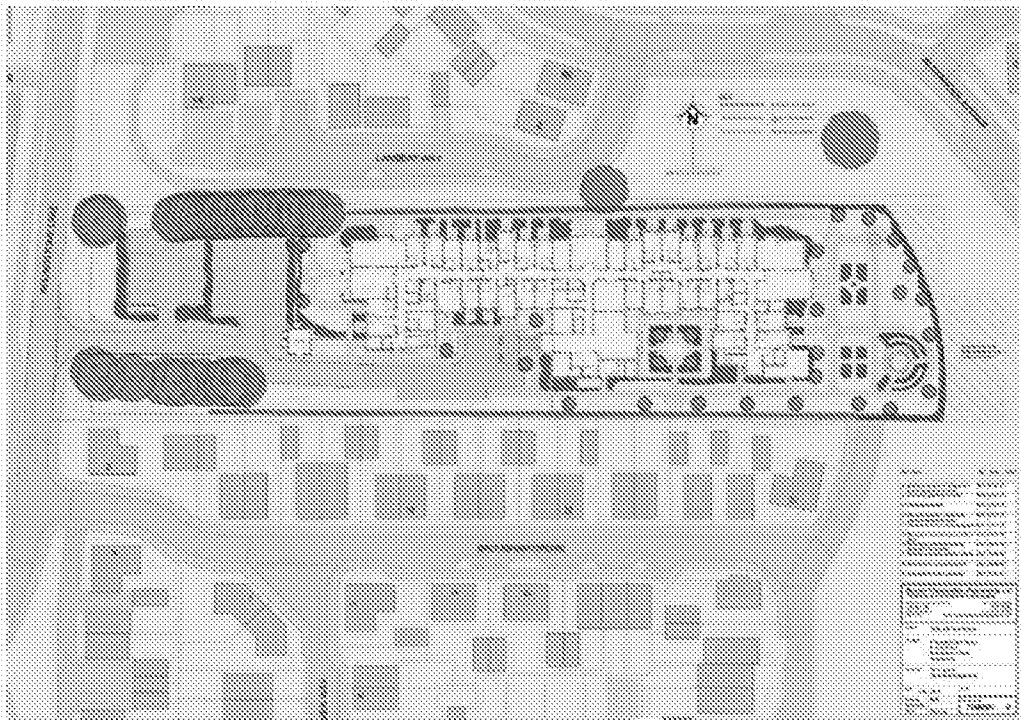


Image: Extract from Angmering South and East Masterplan website portal.

Furthermore, Policy DDM1(10) contained within the reason for the condition states as follows:

Policy DDM1 – Aspects of form and design quality

When considering any application for development the Council will have regard to the following aspects:...

10. Layout – movement

Utilise existing networks or improve access via delivery of a variety of integrated networks, to and from residential areas, commercial zones, open spaces, facilities and public transport. Development schemes should carefully consider walking and cycling as an integral part of the overall design concept.

The underlying aim of Policy DDM1(10) is to enhance pedestrian and cycle links within the wider strategic area in order to encourage sustainable modes of transport.

Turning to the second reason for the condition's removal. This relates to the relationship of the application site with the residential development to the north. To the north is Lambert Way, a residential development associated with the wider Angmering South and East Strategic Allocation.

The Lambert Way/Roundstone Lane frontage comprises a grass verge and landscaped buffer with the built form located behind this landscaped buffer as shown on the image below:



Image: Street View photo showing application site's frontage (Source: Google Maps)

The image above shows the site's frontage that comprises the sloping grass verge with the landscaped buffer to the front of Lambert Way beyond to the north (beyond the red line).

In the event the path was laid out along the site frontage as the condition requires it would terminate at the red line adjacent to landscaping to the front of Lambert Way. This would not serve to facilitate any further pedestrian links beyond to the north and any pedestrians or cyclists using the site would have to cross Roundstone Lane regardless of the footpath. The development off Lambert Way is complete. The opportunity for the frontage footpath has therefore gone. Accordingly, the suggested footpath has no where to link up to.

As such the site (and the footpath) would have no impact on the area's pedestrian and cycle links or on the bus stops that are located both to the north and south of the site.

This serves to demonstrate that the footpath required by the condition is both unnecessary and therefore unreasonable. The condition therefore fails the six tests set out at paragraph 55 of the NPPF.

Summary

This Section 73 application seeks the removal of Condition 14 of planning consent A/3/21/PL. Condition 14 requires a footpath to be laid out along the site frontage adjacent to Roundstone Lane.

The condition is very similar to Condition 17 that was suggested during the appeal (References A/51/18/PL & APP/C3810/W/19/3220233) against the refusal of a 64 bed care home.

In paragraph 27 of the appeal decision the Inspector states that without any evidence put to her during the Hearing she considered the condition unnecessary and unreasonable. On this

basis, condition 14 is, due to the same underlying requirement for path, also unnecessary and unreasonable.

As set out above, in the event the path was provided along the site frontage it would terminate adjacent to a landscaped buffer to the front of Lambert Way and would not provide for any wider connectivity to the north. This demonstrates that the path is indeed unnecessary and therefore an unreasonable requirement.

It is evident therefore that the condition fails two of the six tests for conditions set out at paragraph 55 of the NPPF. The condition should therefore be removed.

I look forward to a positive decision in the near future. In the meantime, please contact me with any queries [REDACTED]

Yours faithfully

[REDACTED]

Douglas Bond BA (Hons) MRTPI

cc. Savista