

Recommendation Report for Planning Permission

REF NO: A/112/21/PL

LOCATION: Pound Place
Roundstone Lane
Angmering
BN16 4AL

PROPOSAL: Application for the removal of Condition 14 following grant of A/3/21/PL relating to the provision of a footpath along the site frontage with Roundstone Lane.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to remove condition14 planning permission A/3/21/PL which states: "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 agents are requesting removal of the condition for the following reasons: i. Lack of justification for the footpath; and ii. Inability for the path to connect to a northern connection point.
TREES	None affected by the proposed development. A Tree Preservation Order has been issued covering the conifer trees to the boundaries of the application site.
BOUNDARY TREATMENT	Trees/ hedging and fencing to site boundaries.
SITE CHARACTERISTICS	Development is underway to construct the approved care home.
CHARACTER OF LOCALITY	The site is located to the east of Roundstone Lane and is part of a larger site for the area to provide 600 homes to the east of Angmering. Sites to the north and south of the site were granted permission with a number of the properties already completed and occupied. To the west of Pound Place lies Bramley Green which has a mix of two and two and a half storey properties fronting Roundstone Lane. To the east is the Angmering By Pass road and the South Downs National Park beyond.

RELEVANT SITE HISTORY

A/3/21/PL	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 site is in CIL Zone 2 (Zero Rated) as other development.	ApproveConditionally 09-04-21
A/51/18/PL	Demolition of existing dwelling & erection of a 64 bedroom care home (C2 Residential Institution) with car park, landscaped gardens & access from Roundstone Lane. This application is a Departure from the Development Plan.	Refused 15-11-18
		Appeal: Allowed+Conditions 31-12-19

At para 27 of the appeal decision letter for A/51/18/PL the Planning Inspector commented in respect of a condition suggested by the Local Planning Authority to secure a footpath link on the site frontage that whilst this would be desirable, there was no evidence to demonstrate this would be necessary and that without it planning permission would be refused.

Para17 stated:

' The Council do not dispute that there is no requirement for a vehicle linkage. The concern relates to pedestrian links from the site to the wider area, in particular removing the need for pedestrians to cross the road to use a footpath. The appellants outlined that it would be possible to provide a footpath across the site frontage. There would not be any other linkages between the site and the wider area. However, a footpath across the frontage would sit outside of the red line site. In addition, it would not connect to another footpath to the north of the site. As such whilst it would be desirable, I do not consider that this requirement is necessary for this scheme to go ahead.'

Subsequently planning permission has been granted for the approved care home to increase in size from 64 beds to 74 beds.

When application A/3/21/PL was submitted the need for a footpath along the site frontage was reconsidered, many of the strategic housing sites in the area were nearing completion increasing the number of residents in the area. Condition 14 was imposed for the following reason:

" To ensure that the site is satisfactorily linked with adjacent sites in accordance with the original Masterplan for the area and policy D DM1(10) of Arun Local Plan."

The submitted general layout plan only indicated a footpath from the site entrance to the south along Roundstone Lane, to join the existing path, no reference was included for a pedestrian path to the north.

REPRESENTATIONS

Angmering Parish Council - Objection.

The development to the north of Pound Place has a footpath running south on top of the embankment on the eastern side of Roundstone Lane. It has an already constructed spur leading and ending at the perimeter fence of Pound Place and a new footpath should be constructed from this point to link up to the footpath to the south of Pound Place. It is essential that safe access is provided to the near by Bus Stop

and safe pedestrian provision generally for residents of the development and all users of the road.

COMMENTS ON REPRESENTATIONS RECEIVED:

These comments are addressed in the conclusions section of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

- none

COMMENTS ON CONSULTATION RESPONSES:

- comments noted

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1 D DM1 Aspects of form and design quality

TSP1 T SP1 Transport and Development

HWBSP1 HWB SP1 Health and Wellbeing

[Angmering Neighbourhood Plan 2014 POLICY TM1](#) Local Highways

Angmering Neighbourhood Plan 2014 POLICY TM2 Cycling Walking & Equestrian

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 Angmering Neighbourhood Plan have been taken into account.

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 relevant Development Plan policies in that it would reduce the sustainability options for the site and potential for provision of suitable safe access along the site frontage for pedestrians.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

The application proposes the removal of an existing condition which the applicant considers is not valid as it fails to accord with the 6 condition tests set out in planning law.

Paragraph 56 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."

In addition, paragraph 003 (reference ID: 21a-003-20190723) of the National Planning Practice Guidance (PPG) states that each of the 6 tests must be satisfied for each condition which an authority intends to apply. Paragraph 031 (reference ID: 21a-031-20180615) 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 agents allege that the condition is neither necessary nor reasonable and that the reasoning for the condition is flawed since the original masterplan showed no pedestrian links on the eastern side of Roundstone Lane, instead relying on the footpath on the western side.

The condition is reasonable and necessary. The original Masterplan sought to improve pedestrian and cycle links within the Masterplan area and provide integrated developments that were joined and accessed by a network of footway links on the eastern side of Roundstone Lane. The condition meets this aspiration by reducing the need for pedestrians to cross Roundstone Lane and increases its links with adjoining residential sites within the wider strategic housing allocation sites.

The provision of a footpath along the frontage of the site would ensure the development meets the requirements of policy D DM1(10) of Arun Local Plan. The underlying aim of Policy D DM1(10) is to enhance pedestrian and cycle links within the wider strategic area in order to encourage sustainable modes of transport. The provision of a footpath provides better accessibility and choice for pedestrians and makes access more attractive and appealing along the eastern side of Roundstone Lane if the footpath is provided.

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 the site's frontage that comprises the sloping grass verge with the landscaped buffer to the front of Lambert Way beyond to the north.

The agent states "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."

However it is possible that once a footpath is provided along the site frontage the grass verge could be utilised by pedestrians adjacent to the landscaped buffer to the development in Lambert Way and over time this could become a permissive path. Once the buffer strip is crossed a pavement and bus shelter are available to pedestrians. Further with no footpath to the north of the access pedestrians leaving the site and traveling to the north have no safe point of access to cross Roundstone Lane, outside of the site access, given that the site frontage to the north currently comprises a steep slope. As such the provision of a footpath would have a positive impact linked directly to the development itself. It would increase the attractiveness of the site for use by visitors/residents at the site to more easily and readily utilise sustainable modes of transport. In the long term it would assist in provision of a potential footway for pedestrian and cycle links to the bus stop to the north.

An approach which seeks to improve and facilitate pedestrian movements would in accordance with paragraph 112 on the NPPF which states applications for development should:

(a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second - so far as possible
and (c) create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles. By reducing the need for pedestrians to cross the road and providing a safer crossing place outside of the site access the requirements of the condition meet these criteria.

The requirement to make provision of a footpath along the site frontage is directly related to the development and is reasonable in accordance with policies TM1 - Local Highways and TM2 - Cycling, Walking & Equestrian of Angmering Neighbourhood Plan where support will be given to proposals which increase or improve the network of cycle ways and footpaths and this is also referred to in policy T SP1 (a) (b) and (f) and policy H DM2(b) of Arun Local Plan.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 Condition 14 of planning permission A/3/21/PL meets the tests for imposition of conditions and its removal would reduce the opportunity for enhanced pedestrian access from the site in conflict with policies D DM1(10), HWB SP1 and TSP1 of Arun Local Plan, policies TM1 and TM2 of Angmering Neighbourhood Plan and the NPPF.