

Recommendation Report for Planning Permission

REF NO: A/119/19/PL

LOCATION: Quiet Waters
Roundstone Lane
Angmering
BN16 4AX

PROPOSAL: Removal of condition 3 imposed under A/81/18/RES due to not meeting tests for imposition of conditions.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal seeks removal of condition 3 of application ref: A/81/18/RES, which is as follows: 'Prior to first occupation, the details of the pedestrian access link between the application site and Cresswell Park, developed by CALA Homes to the north shall be submitted to and be approved in writing by the Local Planning Authority. The dwellings hereby permitted shall not be occupied until these works have been completed in accordance with the approved details.'
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RELEVANT SITE HISTORY

A/26/19/PL	Application for variation of condition following grant of planning permission A/132/17/OUT relating to condition no. 20 - Electric Vehicle Charging Points	ApproveConditionally 05-09-19
A/81/18/RES	Approval of reserved matters following outline consent A/132/17/OUT for appearance, landscaping, layout & scale for demolition of existing dwelling & the erection of 30 No. dwellings. This application is a Departure from the Development Plan.	ApproveConditionally 13-11-18

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Angmering Parish Council

Objection. Angmering Parish Councillors feel that paragraph 55 of the National Planning policy

Framework is being breached by this application.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. It is agreed that the condition is necessary, relevant to planning and to the development to be permitted. It is also enforceable, precise and reasonable in all other respects.

The parties are working to ensure that the development at Cresswell Park proceeds so that the requested link can be provided. An application for a non material amendment is currently in designed to secure an open space link into the development at Creswell Park.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/A

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
TDM1	T DM1 Sustainable Travel and Public Rights of Way
DSP1	D SP1 Design
TSP1	T SP1 Transport and Development

[Angmering Neighbourhood Plan 2014 POLICY TM2](#) Cycling Walking & Equestrian

Angmering Neighbourhood Plan 2014 POLICY HD6 Housing Layout & Design

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 Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for

the relevant designated neighbourhood area.

The relevant policies within the Angmering Neighbourhood Plan have been taken into account in the determination of this application.

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 not considered to comply with relevant Development Plan policies in that the removal of condition 3 imposed under A/81/18/RES would have an adverse impact on the overall design of residential development along Roundstone Lane.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

BACKGROUND

Reserved matters application ref: A/81/18/RES was granted subject to the imposition of conditions. Condition 3 of this reserved matters application seeks the implementation of a link between the application site and a site to the north known as Cresswell Park. The condition stated that:

Links between the different residential developments along the east side of Roundstone Lane are highlighted in the Masterplan and development principles document published for this part of Angmering. Whilst the application site was not part of this Masterplan it abuts its southern tip and a link was considered to be a positive design principle when approving A/81/18/RES.

The link would provide connectivity with the open space on the adjacent residential development at Cresswell Park and developments further north along Roundstone Lane.

The applicant is seeking to remove this condition because they consider that it does not meet the tests for the imposition of conditions as set out in national planning policy guidance.

PRINCIPLE

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

The applicant considers that condition number 3 of application ref: A/81/18/RES does not meet these tests. Principally it is not reasonable on the basis that the adjacent site does not have a path linking into the application site (quiet waters). Therefore it is considered that the 'pedestrian access link' will not link to another path in the CALA Homes site. CALA Homes would need to amend their permission to create a link path to connect to the path from the Quiet Waters site.

The applicant notes that there is an informative on the Decision Notice for the CALA Homes site ref: A/144/15/PL which states:

"The reserved matters application will provide full details of all roads and footpaths associated with the development. In the event that neighbouring land is approved for development at some point in the future this layout must include footpath and pedestrian links right up to the boundary to ensure access"

The applicant also notes that, as this was a full planning application, not an outline, there were no associated reserved matters applications. However, the details of the footpaths were reserved by Condition 26 of the full permission which states: "No part of the development shall be first occupied until the road, footways, and casual parking areas serving the development have been constructed, surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority"

Condition 26 was approved via application A/173/17/DOC. However, the approved plan CA00263-PH3-100 where the site's southern boundary with Quiet Waters is located there is no footpath link shown.

So as to correct this omission CALA Homes have submitted a Non Material Amendment (NMA) where this section of the plan has been corrected to show a link. A decision will be made in due course.

ASSESSMENT OF 6 TESTS

1. Necessary;

The condition is necessary as it seeks to ensure that a link up to Cresswell Park is secured and implemented.

2. Relevant to planning;

The condition is relevant to planning as it deals with a planning design principle.

3. Relevant to the development to be permitted;

The proposal would lead to the provision of a link to the CALA Homes site to the north. It is considered that this would enable the application to fit in with the wider aims for development within this area. Additionally it would ensure ease of movement, prioritising safe pedestrian and cycle access in line with Policy T DM1 of the Arun Local Plan and policy TM2 of the Angmering Neighbourhood Plan.

4. Enforceable;

By agreeing to amend the plan approved by A/144/15/PL the developers have bought into providing a link and failure to do so would be readily enforceable.

5. precise and 6. reasonable in all other respects.

The condition is reasonable in all other respects and will provide precision with details to be submitted by the applicant and to be agreed with the relevant departments within the Council.

CONCLUSION:

It is recommended that, having regard to, the above assesment, removal of condition 3 of application ref: A/81/18/RES is refused.

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

REFUSE

- 1 The removal of condition 3 on application A/81/18/RES would lead to the loss of a link between Quiet Waters and the CALA Homes site in conflict with policies D SP1 and T DM1 of the Arun Local Plan and Policies HD6 and TM2 of the Angmering Neighbourhood Development 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 identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.