

Recommendation Report for Planning Permission

REF NO: A/65/20/PL

LOCATION: Merry England Nursery
Dappers Lane
Angmering
BN16 4EN

PROPOSAL: Variation of condition 21, item 4 imposed under A/91/18/PL following approval of A/142/16/OUT relating to wording of condition to read 'prior to occupation' instead of 'prior to commencement' for verification plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The condition in question is:
Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be

implemented as approved.

Where demolition is required 1. and 2. above should be submitted prior to demolition. Parts 3. and 4. can take place post demolition if necessary.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policy D DM1, ENV SP1, ENV DM3, ENV DM5. This is required to be a pre-commencement condition because these details have to be agreed and in place before any work commences.

SITE CHARACTERISTICS

A housing development site with houses at various stages of completion

CHARACTER OF LOCALITY

Semi-rural with limited residential development to the east of Dappers Lane, to the north and south of the site are former nurseries used largely for commercial purposes with open fields to the east of the site. To the west of Dappers Lane is residential development within the built up area boundary. The area of land abutting the highways west of Dappers Lane and spanning the length from the dwelling namely Westbury to no.28 Dappers Lane is grass verge in the ownership of the WSCC Highways Authority.

REPRESENTATIONS

No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Environmental Health - No objection

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

OUTS BUILT AREA

SPEC CONT ADVTS

PD RESTRICTION

DEVELOPMENT PLAN POLICIES

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

No policies in the Neighbourhood Plan are considered relevant to 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 considered to comply with relevant Development Plan policies in that it is a minor technical change to a condition.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

This application is a minor technical change to a condition altering the wording from from prior to commencement to prior to occupation. This condition was requested by the Council's environmental health officers when approving A/91/18/PL .

The Council's Environmental Health team have confirmed that this change is acceptable as the verification plan being submitted once all groundworks across the site (including areas of soft landscaping) are complete; 'prior to occupation' would encompass this.

The application is recommended for approval.

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

1 Prior to the occupation of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

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- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Where demolition is required 1. and 2. above should be submitted prior to demolition. Parts 3. and 4. can take place post demolition if necessary.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policy D DM1, ENV SP1, ENV DM3, ENV DM5. This is required to be a pre-

commencement condition because these details have to be agreed and in place before any work commences.

- 2 INFORMATIVE: This is the approved change for condition number 21 of A/91/18/PL. All other conditions under A/91/18/PL remain in force.
- 3 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.