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From: paul collins [REDACTED]
Sent: 11 February 2021 15:27

[REDACTED]

Subject: BE/148/20/OUT - Nursery Fields Land to the North of Chalcraft Lane West Bersted PO21 5TS

Dear All

Please see the attached document being my representation regarding this application and place same on the file

Paul Collins BA (Hons) DipTP
[REDACTED]

Independent Planning Application Report – BE/148/20 OUT

The Application

The application was made on 09-12-20 and the statutory determination period expires on 10-03-21.

The Application is made in outline with all matters except for detailed access reserved for later approval.

As submitted the development proposed is set out in the description of the application as stated on the application form as follows:

- development of the site edged red on the submitted location plan with up to 225 residential units (Land area and location within the site unspecified as layout is a reserved matter)
- vehicular and pedestrian access as specified on submitted plan Site Access Arrangement, drawing number ITB14224-GA-009 as access is not a reserved matter

Procedural Matters arising

- The associated infrastructure, open space specified in the application description are all the subject of indicative plans and information which do not form part of the application submitted (as all matters except access are reserved) but could be made subject to conditions and/or a s106 Agreement in respect of any outline planning permission granted.
- Access may not lawfully be made subject to conditions and/or s106 Agreement as it forms part of the application as submitted and in the event that the access as proposed is not acceptable to Arun District Council the application submitted should be refused.
- The applicant is entitled to exercise their right to appeal against the Council's failure to determine the application within the statutory determination period at any date after 10/3/21 against a refusal if determined before that date.

How the submitted Application must be determined

To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 11 of the Framework. If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed¹.

Framework Paragraph 11 states that for decision making the presumption in favour of sustainable development means:

(c) approving development proposals that accord with an up-to-date development plan without delay; or

¹ PPG Paragraph: 006 Reference ID: 21b-006-20190315 Revision date: 15 03 2019

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Therefore if the relevant development plan policies which are most important for determining the application are up to date and the proposals accord with same the application should be approved without further delay,

Alternatively if the relevant development plan policies or the policies which are most important for determining the application are out-of-date permission should be granted unless NPPF Paragraph 11 d i) or ii) apply.

The development plan policies which are most relevant and important for determining the application

The application has been submitted in outline with all matters except for access reserved for later consideration so that it is only the principle of developing the 14.07ha site with the development specified in the application (see above) and the access to same that are before the Council for determination.

In this case the development plan policies which are most relevant and important for determining the principle of the development proposed and the specified access on this application are those of relevance in the Bersted Neighbourhood Plan made on the 5th November 2014 and the following strategic Policies (those with the suffix SP) from the Arun Local Plan 2018 (adopted in July 2018) Policy H SP2a Greater Bognor Regis Urban Area SD 3 West Bersted , Policy GI SP1 Green Infrastructure and development, Policy ECC SP1 Adapting to climate change, Policy HWB SP1 Health & Wellbeing, Policy ENV SP1 Natural Environment, Policy QE SP1 Quality of the environment, Policy T SP1 Transport and Development, Policy INF SP1 Infrastructure provision and implementation, Policy INF SP2 New Secondary School and development management policy ENV DM2 (Pagham Harbour).

The Bersted Neighbourhood Plan contains policies which are in conflict with those in the ALP July 2018 and under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published². I.e. those with the suffix SP in the ALP 2018.

There are conflicts between those ALP 2018 Policies adopted, approved and published at the same time cited and these must be considered in the light of all material considerations, including local priorities and needs, as guided by the National Planning Policy Framework³.

Further the strategic policies in the ALP 2018 are acknowledged to be out of date and a review of same has therefore commenced and discussions are currently taking place with regard to the implementation or otherwise of Policy H SP2a Greater Bognor Regis Urban Area SD 3 West Bersted

² PPG Paragraph: 012 Reference ID: 21b-012-20140306 Revision date: 06 03 2014

³ PPG Paragraph: 012 Reference ID: 21b-012-20140306 Revision date: 06 03 2014

Assessment

I have reviewed the principle of developing the site with the development specified in the application (see above) and the access to same as specified in the application against all the relevant development plan policies which are most important for determining the application (as set out above) and can only conclude that the development as proposed is in conflict with same as currently worded⁴ so that if those policies are considered to be up to date the outline planning permission sought should not be granted and the application refused at the earliest opportunity as there are no legally appropriate conditions or S106 Agreement that can address or remedy these conflicts.

Alternatively if Arun District Council considers that the relevant development plan policies or the policies which are most important for determining the application are out-of-date permission should not be granted and the application refused at the earliest opportunity because the application of policies in the Framework that protect areas or assets of particular importance⁵ do provide clear reasons for refusing the development proposed and the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

What Arun District Council should not do is approve this application at this date because such an approval would prejudice and predetermine the direction and outcome of the ongoing review of and discussions relating to Policy H SP2a Greater Bognor Regis Urban Area SD 3 West Bersted

Paul Collins BA (Hons) Dip TP – 11 February 2021

⁴ A LPA may not change the wording or detail of adopted development plan policies other than by way of a properly conducted Local Plan Review

⁵ Namely those relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest and areas at risk of flooding or coastal change.