

Recommendation Report for Planning Permission

REF NO: BE/90/14/PL

LOCATION: Site 6
Chichester Road
North Bersted

PROPOSAL: Application for removal of condition 58 imposed under planning application BE/45/04 - relating to occupation of 142 dwellings

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Planning application BE/45/04 was granted planning permission for the development of the site at Site 6 Bersted for 650 residential dwellings. Condition 58 stated that no more than 142 dwellings shall be occupied until works to the A27/B2144 Oving Road junction have been completed. Planning permission FP/174/09 amended this trigger to 142 dwellings.

Over recent months, detailed discussions have taken place with the Highways Agency about the need for these works and this application now seeks to remove this condition entirely.

SITE AREA

RESIDENTIAL DEVELOPMENT DENSITY	N/A
TOPOGRAPHY	n/a
TREES	n/a
BOUNDARY TREATMENT	n/a
SITE CHARACTERISTICS	n/a
CHARACTER OF LOCALITY	n/a

RELEVANT SITE HISTORY

BE/45/04/	Outline Application for residential development comprising 650 residential dwellings, formal & informal public open space, including sports pitches, community facilities & associated works. Western section of the Bognor Regis North relief road between the A259 Chichester Road & Rowan Way (This application is accompanied by an	NON DET APPEAL 19-11-2004 <i>Appealed</i> Appeal: Allowed+Conditions 22 11 2006
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environmental statement, affects a public right of way & the setting of a conservation area & constitutes a departure from the development plan)

REPRESENTATIONS

Representations received:

None received

Comments on Representations received:

n/a

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Highways Agency

Consultations responses received:

None

Comments on Consultation responses:

n/a

POLICY CONTEXT

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#) DEV15
GEN7

Safeguarding the Main Road Network
The Form of New Development

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication

at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

However, there are no relevant policies contained in the current version of the published emerging Local Plan.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Policies within the Bersted Neighbourhood Plan have not been referred to because, whilst the original application relates to a site in Bersted, the specific condition relates to highways works in Oving.

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 would

have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

In allowing the original appeal in 2004, the Secretary of State imposed conditions requested by the Highways Agency in respect of improvements to a number of junctions on the A27 between Cockerhill and Bognor Road.

The consultants on behalf of the applicants have been in lengthy negotiations with the Highways Agency in recent months to discuss whether the required improvements at Oving (condition 58) were actually required as a result of the impact of the Site 6 development. The conclusions of this work were that only a very small proportion of traffic from Site 6 would use the Oving junction and the mitigation required by the condition was not justified based on the level of additional vehicle trips. These conclusions are based on the following;

- Surveys of actual vehicle users from Site 6
- The worst case scenario previously forecast has not been realised
- The forecast traffic growth figures from the models used 10 years ago have not been realised to quite a significant degree
- The BRNRR will remove a substantial amount of traffic from the A259
- The planning permission at Shopwyke Lakes has a more significant impact and requires specific mitigation at the Oving junction.

Following these lengthy discussions and consideration of the technical work, the Highways Agency have now agreed that the mitigation at the Oving Junction is no longer required or justified from the Site 6 development.

As a result, it is recommended that the condition be removed and this application be approved.

The consultation period expires on 25 September 2014 but, as an identical application (FP/119/14/PL) was required to appear on this agenda, it is appropriate to jointly determine this application. Because of the consultation period, delegated authority is requested to approve the application on 26 September.

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 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 neutral 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).

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

- 1 **INFORMATIVE:** Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.
- 2 **INFORMATIVE:** This decision has been granted on the basis of condition 58 attached to BE/45/04 only. All other conditions attached to that permission remain.