

STATEMENT OF COMMON GROUND AGREED WITH ARUN DISTRICT COUNCIL IN RESPECT OF THE BOWERIES BARNHAM ROAD EASTERGATE (EG/22/19/OUT) - APPEAL REF APP/C3810/W/20/3246409 DUE TO BE HEARD AT A VIRTUAL HEARING ON 22 SEPTEMBER 2020

1. STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared by the appellant in agreement with Arun District Council. Its content follows advice in Appendix S of the Appeals Procedural Guide (March 2020). It was not submitted at the time the written appeal was made because it was not a requirement and only became so when the procedure was changed to a hearing at the request of Arun District Council. It is agreed that no prejudice has been caused to any party by the later preparation of this statement.

In accordance with the Appeals Procedural Guide this Statement identifies matters that are agreed between the appellant and the local planning authority followed by matters that are in dispute (uncommon ground). It lists all agreed matters and includes basic facts such as the site description, area, planning history, relevant planning policies, and as many other matters as possible relating to the application.

2. DESCRIPTION OF THE SITE

The appeal site comprises approximately 1.49ha of land currently used for grazing horses. It is in the western part of Barnham on the south side of Barnham Road within the parish of Barnham and Eastergate and the Neighbourhood Plan designated area. The settlement policy boundary of Eastergate is to the east of the site. The character of the area comprises a semi-rural character.

The site is located within the Barnham/Eastergate/Westergate (BEW) Strategic Development Allocation identified in the adopted Arun District Local Plan July 2018 Arun Local Plan in Policies HSP2 & HSP2c. The policy provides for at least 2300 dwellings over the plan period to 2029 and a further 700 beyond 2031 Review. The Appeal Site is within flood zone 1 (least liable to flood).

The railway station is approximately 0.6km from the site. The site is located within walking distance (approximately 200 metres) from the nearest bus stop; and 500 metres from Barnham. The nearby bus stop is served by bus route 85 and 85A which provide an hourly service between Eastergate and Barnham and Littlehampton.

The draft mini masterplan has been used between both parties to ensure the delivery of the strategic cycleway serving this part of the BEW strategic development and ensuring that the cycleway links up with the wider network within BEW and with the existing cycle network serving Barnham, Eastergate and Westergate.

The cycleways within the mini masterplan area provide certainty that crossing points over Barnham Road are safe and connect up with the proposed cycleways on the parcel of land the Barratts will be developing north of Barnham Road.

3. PLANNING HISTORY

The appeal site was the subject of a pre application enquiry for 27 no dwellings which the Council responded to on 8 March 2018. The Council's response concluded that were an application for planning permission to be submitted as a stand-alone scheme, permission would likely be refused. However, if the site was included as part of the master planning for the BEW strategic allocation and it could be demonstrated that it had been comprehensively planned in accordance with a masterplan endorsed by the Council, including ensuring that infrastructure contributions were proportionate (based on the allocation requirements), then permission would be granted.

A planning application (Ref EG/42/18) was submitted in July 2018. It was an identical application to the current appeal proposal for 28 units but was withdrawn because of Council concerns that it was unable to deliver a comprehensive development. A TPO EG/1/19 was confirmed for 4 trees south of Barnham Road (3 on the appeal site and 1 on the adjacent Bexstone House site) on 28 May 2019. It is agreed that all of the protected trees on the appeal site can be retained in a suitably designed layout at reserved matters stage.

4. THE APPEAL PROPOSAL

The appeal application was submitted to Arun District Council in April 2019 and registered under LA Ref EG/22/19/OUT. The proposal is described as

'Outline application with some matters reserved for the erection of 28 no. dwellings, access, landscaping and associated works (re-submission following EG/42/18/OUT)'.

All matters are reserved apart from access. It is agreed the proposed access, parking and road layout are all acceptable to the local highway authority which raised no objections to the proposal. The Local Highway Authority said the revised proposed site layout plan shows a connection into neighbouring land via the southern turning head. A turning head/drive is also located close to the boundary with Bexstone House (also included within the strategic allocation and could provide future linkages). The strategic landscape masterplan highlights a pedestrian link from Public footpath FP321 into the application site and this should also be a cycle link in accordance with the WSCC Walking and Cycling Strategy. The Wider Development and Landscape Framework plan shows links that would not be facilitated by the proposed site layout.

Because of the Council's requirement for a comprehensive development a draft Concept Masterplan was prepared and submitted during the consultation period for the planning application (EG/22/19/OUT). The draft Concept Masterplan initially covered the application site and was predicated on the submitted layout plan; but it expanded over time to cover four parcels of land, each in separate ownership, bounded by Barnham Road to the north, the proposed re-aligned A29 to the east, existing residential developments to the west, and a landscape corridor incorporating the existing footpath (FP321) to the south. The Concept Masterplan, which became known as the Barnham Road Mini Masterplan, sets out the three main design principles:

1. Integration of existing landscape features;
2. A permeable network of new streets; and
3. Growth led by the current settlement structures".

Prior to the determination of the appeal application, a revised Concept Masterplan produced jointly in agreement with the landowners of the land parcels was submitted by the applicant.

The revised 'mini masterplan', albeit it is still in draft and it has not been agreed by all parties, is referred to in the appellants Statement of Case and attached as Annex 3. The masterplan (Rev F) was shared with the Council in November 2019 and it shows the appeal site with potential road connections through to adjoining land west and east and an access onto Barnham Road. Part of the site is shown with a green corridor and a Landscape Design Strategy was produced by the appellant for this.

The application was refused in a decision dated 29 November 2019 for the following reason:

Insufficient information has been submitted to demonstrate that the proposed development of this scale could be satisfactorily accommodated in a manner which would not undermine the delivery of a comprehensively planned settlement of high quality with a strong sense of place, having regard to such matters as green and blue infrastructure, the prevention of coalescence of Barnham and Eastergate, the A29 re-alignment, non-car modes of transport, open space, play provision and landscape, other infrastructure provision and a high quality legible and permeable layout, contrary to Policy D DM1, Policy H SP2, H SP2c, Policy OSR DM1(2a) and Policy W DM2 of the Local Plan, Policy H4, Policy ES1, Policy ES3 and Policy GA2 of the Barnham and Eastergate Neighbourhood Plan.

After the appeal was lodged, further progress has been made on the draft mini masterplan between the appellant, the council and the landowners. The most recent iteration of the draft mini-masterplan (Plan Ref 6710 SK05 Rev D) indicates the appeal site as being capable of accommodating 30 dwellings with adjoining land as a comprehensive development. It is agreed that this indicative capacity would require further detailed design work. However, the draft mini-masterplan has still not been agreed by all parties, nor has it been formally approved by Arun District Council.

A copy of the draft mini-masterplan is attached to this statement of common ground at **Appendix 1**, together with a schedule of planning conditions, which have been agreed between the Council and the appellant which is attached at **Appendix 2**.

It is agreed by both principle parties to this appeal that the draft 'mini' masterplan Ref 6710 SK05 Rev D showing the potential capacity for 30 dwellings on the appeal site achieves the policy objective for a comprehensive development.

5. POLICY MATTERS

It is agreed that the tilted balance under paragraph 11(d)(ii) of the 2019 Framework is engaged for the appeal because as of July 2020 the council could only show a 2.9 year' housing land supply.

Relevant policies for the appeal are agreed as the following:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

It is noted that Policy D DM1, Policy H SP2, H SP2c, Policy OSR DM1(2a) and Policy W DM2 of the Local Plan, and Policy H4, Policy ES1, Policy ES3 and Policy GA2 of the Barnham and Eastergate Neighbourhood Plan are all referred to in the sole reason for refusal.

The parties dispute that not all policies in the reasons for refusal are relevant to the appeal proposal. Matters not agreed are set out in section 8 below.

6. DOCUMENTS AND PLANS

It is agreed the following documents and plans are the ones that were determined by the Council in the refusal notice dated 29 November 2019:

Plans

- Site Layout Plan 101 PO4
- Wider Development and Landscape Framework Plan 1000 PO6
- Ecology Enhancement Plan 102 PO1
- Concept Masterplan September 2019
- Strategic Landscape Masterplan LLD1257-LPL-FIG 00
- Tree Constraints Plan LLD1387 ARB DWG 001
- Location Plan Dwg 1815 100 PO1
- 4 No Plans within the Flood Risk Assessment Plan

Documents

- Heritage Statement
- Road Safety Audit
- National Design Guide Policy Addendum & covering email 11/10/2019
- Planning Design & Access Statement and Appendices April 2019

- Landscape & Visual Impact Appraisal LLD1257 Rev 2 12.06.2018
- Flood risk Assessment & Drainage Strategy (May 2018) ES1814/FRA
- Existing Tree Schedule (March 2018) LLD1387
- Highways & Transport Technical Note including figures 1.1, 1.2, 1.3,1.4 &1.5 with appendices
- Noise Assessment
- Preliminary Ecological Appraisal Survey & Preliminary Protected Species & Bat Roost Assessment Survey (March 2018) LLD1387 – ECO -REP-001_PEA

7. UNILATERAL UNDERTAKING

A Unilateral Undertaking will be prepared to accompany the appeal no later than 7 weeks from the start date in accordance with the Hearing requirements.

This will cover the provision of 9 affordable dwellings and the required infrastructure contributions for the BEW Strategic site calculated based on 30 dwellings. Both parties agree to contributions and clauses towards the following, which will be set out in the forthcoming Unilateral Undertaking:

- Education (Nursery)
- Education (Primary)
- Education (Secondary)
- Education (Sixth Form)
- Libraries
- Fire & Rescue
- Transport
- NHS
- Community Centre
- Playing Pitch Provision
- Ancillary Facilities Provision Associated with Playing Pitches
- Sports Hall/Flexible Activity Space
- Health & Fitness
- Swimming Pools
- Green Infrastructure
- Open Space
- Play Space
- Play Area Maintenance
- Public Art
- Monitoring
- Affordable Housing
- Local Highways Authority Road Adoption

8. MATTERS NOT AGREED

Policy D DM1 deals with aspects of form and design quality including scale, character, form, appearance, layout, density and design. The appellant considers the policy is not relevant to the appeal as layout, design and scale are all reserved for subsequent approval. In the event the appeal is allowed the appellant is content for them to be considered at reserved matters stage.

Policy HSP2 - Strategic Site Allocations and H SP2c Inland Arun requires development proposals within the Strategic Site Allocations to be comprehensively planned, have regard to a masterplan endorsed by the Council and meet key design and infrastructure requirements. Following the submission of the mini-masterplan which has been produced in conjunction with the LPA, both parties agree that the site is could be considered to be comprehensively master planned, subject to acceptable details coming forward at reserved matters stage.

The LPA considers there is still a conflict with Policy H SP2. it is considered that the applicant has failed to provide adequate information to demonstrate whether or not the proposed 28 dwellings on this site would undermine the delivery of a comprehensively planned settlement and consequently whether the proposal would provide a high quality development with a sense of place and permeable layout, which includes the location of the Green Corridors running through the Mini Masterplan area, the size of the gap between Eastergate and Barnham, located on the easternmost parcel of land in the Mini Masterplan area, and the surface water drainage features including attenuation basins and swales.

Policy OSR DM1(2a) deals with open space provision. 4130m² of open space is shown on the agreed mini masterplan Ref 6710 SK05 Rev D. Both parties agree this level of provision is policy compliant and acceptable.

The provision of 28 dwellings on the Boweries would trigger the need for an on-site Local Area of Play (LAP), plus an off-site LEAP contribution, which would be set out in a Section 106 agreement (Unilateral Undertaking). The provision of LEAPs needs to be considered in terms of the mini masterplan and whether a LEAP in the proposed location is best suited to serve the residential development parcels within the mini masterplan. The LPA maintains that the green infrastructure for the area of land covered by the mini masterplan has not been planned comprehensively and in a piecemeal way.

Policy W DM2 deals with flood risk. The application site is located in Flood Zone 1. The Flood Risk Assessment (FRA) and Drainage Strategy submitted with the outline planning application confirmed that the proposed surface water drainage would use a combination of soakaways and permeable paving. The FRA recommends the carrying out of percolation tests; the drainage for the development should be designed for the 1 in 10 year event with an allowance of 40% for climate change; and undertake a topographical survey of the site to ensure levels can be set to ensure flood flow routes through the site should an exceedance event occur. The surface

water drainage for the application site needs to be considered as part of the mini masterplan area to ensure that all of the sites within the masterplan area can be drained effectively, and to ensure that the proposed development complies with Policy W DM2 of the Local Plan of the Local Plan.

The LPA does not consider that the draft mini-masterplan takes into account a combined drainage strategy that reflects the wider drainage of the BEW site. The LPA considers the draft mini masterplan excludes the provision of surface water drainage features including attenuation basins and swales. The LPA considers such water features should form part of the layout of the application site and the whole area covered by the mini masterplan.

The LPA considers the draft mini masterplan currently fails to identify the interrelated Green and Blue infrastructure framework, which would ensure the comprehensive planning of the mini masterplan area.

Policy H4, Policy ES1, Policy ES3 and Policy GA2 of the Barnham and Eastergate Neighbourhood Plan are all listed in the reason for refusal. The appellant disagrees that these should carry any weight for the appeal in light of guidance in paragraph 14 of the NPPF.

9. OTHER AGREED INFORMATION

In the spirit of the ongoing work between the Council and the appellant resulting in agreement on a comprehensive development solution for the site and adjoining land shown on Plan Ref 6710 SK05 Rev D it is agreed that neither party will seek an award of costs in respect of the merits of the appeal. This does not prejudice either party from seeking an award of costs due to unreasonable behaviour throughout the course of the appeal; especially as the draft mini-masterplan has not been agreed by all parties and still needs amending to overcome conflicts with Policy H SP2 of the Local Plan; and the fact that the proposed layout for 30 dwellings is predicated on the draft mini-masterplan.

Signed Michael Eastham (Council)

Signed

A solid black rectangular box used to redact a signature.

Date 03/09/2020