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18 January 2022

To: The Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing and Communities,
2 Marsham Street,
London
SW1P 4DF

Dear Secretary of State,

Re: **Decision of Planning Inspector**

Appeal Reference: APP/C3810/W/21/3273087 – Land South of Barnham Station, Barnham, West Sussex

I am writing on behalf of Barnham and Eastergate Parish Council and the local community to seek your assistance in revoking or mitigating the above decision by the Planning Inspectorate to approve a planning appeal by Gleeson Homes. A copy of the decision, which appears to set a precedent for development which over-rides local democratic planning policy and specifically the Localism Act, is attached for your information.

The Member of Parliament (Andrew Griffith), Arun District Council, local residents and the Parish Council have all objected in the strongest terms to this planning application for 200 homes on a sensitive site next to the historic Church Lane in Barnham, but their voices, and the policies within the local planning framework on which they should be able to rely, have been dismissed by the Inspector.

At the outset please be reassured that this Council and its community are not motivated by NIMBYism in their opposition to this development. As a community we have been committed to place-making through the neighbourhood planning process and our first plan was made in 2014. Indeed, this site represents part of one of the last areas of land in the village which have not been consumed by new housing development. In our village of 2,325 dwellings there are currently approved planning applications for 560 houses and an approved masterplan for a strategic allocation of 3,500 to 4,000 houses. We'd conservatively expect this to yield 1,360 houses in the next 5 years. The housing waiting list for the whole of Arun District is around 900. The houses being built will make little impact on that figure as they are predominantly 3/4/5 bed detached properties which tend to be bought by commuters to London. Overall, Barnham and Eastergate are taking 15% of the entire Arun DC building programme whilst possessing a population which makes up just 3% of the district.

The use of this particular site for development is contrary, as the Inspector has acknowledged, to many local planning policies at District and Parish level and specifically the existing and emerging Neighbourhood Plans (the latter due to be formally confirmed by the DC on 26th January).

Nevertheless, the Inspector has concluded that local planning policies arrived at through the democratic process and at considerable cost to the public purse (around £20,000 per Neighbourhood Plan in Government funding) are simply “on balance” over-ridden by the requirement for large scale housing development. This notwithstanding his assessment that the taxpayers of Barnham and Eastergate should be able to rely on such policies to regulate building as part of the democratic contract:

“Allied to the harm arising from the conflict (caused by the proposed development) with the (Arun) Development Plan and emergent Neighbourhood Plan is the harm that arises from the erosion of the certainty that a plan-led system should provide, including to local communities” (para20).

It is the Parish Council’s contention that, should this decision letter be allowed to stand, **the very basis of the local democratic planning framework will be undermined through the harm caused by the uncertainty that this outcome will generate. In short, localism in planning terms will fall into disrepute and chaos.** Local Councils within Arun are already considering their response to the precedent set by this decision.

To assist the Secretary of State, the Parish Council have summarised their principal concerns about the impact of this decision and their reasons for their request, as follows:

The “Public” Inquiry side-lined local people:

1. Despite the levels of local interest/opposition the Inquiry was held “remotely” in London with only limited access for local people – Covid being cited as the reason why people should not congregate for a work- based activity. There was no embargo on such meetings or indeed socialising at the time.
2. Only one witness was called for the objectors.
3. It will devastate the community of Marshall Close, the quiet cul de sac through which this development will be constructed and accessed – *“The character and appearance of Marshall Close would be harmfully affected” (para 28).*
4. The inspector concedes that *“the proposed density (of housing) would be at odds with the gentle density of the nearest residential development”*

The decision deliberately contravenes local planning policies and therefore the spirit, if not the letter, of The Localism Act 2011. As stated by the Inspector:

- *“The appeal proposal would directly conflict with those development plan policies that seek to direct most housing proposals within the BUAB and to recognise the intrinsic character and beauty of the countryside” (para 13)*
- *“There would be a degree of harm arising from the conflict with the principle that a plan-led system should provide valuable certainty” (para 16)*
- *“The appeal site is in a location contrary to development plan policies relevant to the supply of housing...policies C SP1, SD SP2 and LAN DM1 of the Arun Local Plan” (para 20).*
- *“The proposal would also be contrary to Policies H2 and H4 of the Neighbourhood Plan 1..... In locational terms it would also be in conflict with Policies H1 and H2 in the emergent Neighbourhood Plan” (para 20).*
- *“The proposal would be contrary to Policies LAN DM1 and D DM1 of the ALP”. (para 30)*
- *“It would be contrary to Policies ES4, ES6 and ES10 of NP1” (para 30)*
- *“It would fail to accord with Policies ES4, ES5 and ES7 of the emergent Neighbourhood Plan” (para30)*
- *“It would be at odds with NPPF paragraphs 174b and 130c respectively... and also contrary to relevant key objectives of the Arun Design Guide” (para 30).*

The decision sends a “green light” to speculative developers on the basis that it effectively concludes that there is no legitimate policy that can successfully prevent any large- scale housing development proposals in Arun District.

It undermines local democracy and public confidence in the planning system which the Inspector states local people have the right to expect:

1. “ ...harm ..arises from the erosion of the certainty that a plan-led system should provide, including to local communities” (para20)
2. The inspector states that “considerable weight will need to be applied to the relevant policies of the emergent local plan” (para 10) and (para 13) “the appeal proposal would harmfully erode the certainty that the development plan and the advanced emergent neighbourhood plan should provide” but concludes that on balance houses trump policy.

The decision redefines the accepted local definition/status of land identified under the HELAA (Housing Economic Land Availability Assessment) which the Inspector initially accepts:

- “ I share the assessment...that a positive assessment in a HELAA does not automatically translate into acceptability. Nor does it override the statutory status of the development plan”
- before moving to an interpretation where there is a presumption in favour of a:
 - “pragmatic consider(ation)... to recover housing delivery”. (para12)
- “ .. housing land supply matters are so askew from where they need to be to meet the identified housing need, that unallocated but deliverable HELAA sites should be given positive consideration” (para 108)

This has significant policy ramifications.

The Inspector then appears to have gone way beyond his remit in subsequently delivering his own assessment of the suitability of individual HELAA sites for development.

The Inspector concedes that the development will have a detrimental effect on the countryside and visual amenity of the area whilst actively making proposals which will make the situation worse:

- “ ...there would be no escaping, in views from Church Lane, that the appeal proposal would result in a perceptible loss of characteristic countryside and introduce a new urban edge with a limited relationship to the character of existing adjoining development” (para 24)
- With regard to the effect on views to the South Downs National Park the Inspector accepts that “...the proximity and potential layout and massing of the appeal proposal on rising ground...presents a very real risk that views of the South Downs from Church Lane would be diminished with only the higher parts of the Downs visible above the ridges of the proposed dwellings” (para 25).
- “ ...the sense of separation from the modern Barnham would be perceptibly eroded and the rural setting to the north-east of the BCLCA would be reduced” (para 41)
- Notwithstanding the effects on the visual amenity he concludes that the height of the buildings could be increased, thereby exacerbating the problem “Whilst the parameter plan shows 2 storey development up to 10 metres...the highest part of the site could accommodate elements of development up to 2 and a half storeys (11.5 metres) “ (para22).
- “In respect of the conservation area, the proposal would be contrary to policies HER SP1 and HER DM3(f) of the Arun Local Plan and policy ES7 of Neighbourhood Plan 1. It would also conflict with modified policy ES7 of emerging Neighbourhood Plan” (para 47)
- The decision opens the way for further development along historic Church Lane which will be even more detrimental to the rural character and civic amenity of this site.

The Inspector asserts (para 128) that policies that seek to protect the Countryside are “out of date” and of reduced weight. This flies directly in the face of the Climate Emergency and COP 26 which calls for Communities to defend the environment.

The Council maintains its belief that the development of the site and the traffic generated will pose significant risk to pedestrians, wheelchair users, people with perambulators etc:

The Inspector notes that there is a “short length” of road from Marshall Close to the junction with the B2233 which has no footway. He concedes that traffic volumes will increase along this length of road with the development (it is the only vehicular access for construction traffic and subsequently the built estate) and that *“the arrangement is less than ideal”* (para 52).

This length of road is used heavily by pedestrians from Barnham accessing the local footpath network, the Community Hall field and green corridor to Bersted. The inspector blithely suggests that pedestrians (he fails to mention people in wheelchairs or with prams etc) will be able to avoid the dangerous potential conflict by *“safely stepping-off using the edge to the pub car park or the entrance to Greenbank”*. This is nonsense. It assumes people will always be facing on-coming traffic, that they will not have hearing loss, and that they will be lithe enough to effectively jump out of the way of vehicles.

The inspector also concedes that the existing pathways along the B2233 into Barnham are *“likely to be tight for those with pushchairs and for wheelchair and mobility scooters...”* (para 51)

There are other concerns - *“I note that up to 200 dwellings would be served by one point of vehicular access. To my mind that does create some risk should there be an emergency...”* (para 63)

The impact on FP323 and associated Rail Crossings:

There are two points where the FP crosses the railway line.

These are of obvious concern to the Inspector:-

- *“...the very proximity of (the proposed) housing to the railway line would tempt younger persons to explore, play and take risks by accessing the railway line at the unmanned Birch Crossing”* (para 57)
- *“...those concerns would increase over time once the BEW (another approved planning application for 1200 homes) development is implemented”* (para 57)

Network Rail originally objected to the proposal on safety grounds but the appellant agreed a form of condition that would preclude occupation of any dwelling on the site *until a necessary Order for the extinguishment or diversion of FP323 is in place*.

Condition 28 confirms this but states *“This condition shall apply **unless** either the relevant local authority or the Secretary of State, whoever is the person lawfully seized of the decision whether to confirm the order, refuses to confirm”*.

This seems to stipulate that if there are substantive objections to any extinguishment or diversion which would preclude confirmation of the Order then the occupation of the site can go ahead irrespective of the recognised dangers to the public.

Flooding and Sewage:

The inspector has ignored the historic evidence of substantial flooding on this site and has accepted the assurances of Southern Water that solutions can be found to sewage capacity issues. Experience on other development sites in the parish would suggest that this trust is misplaced.

In conclusion, the Parish Council and local residents, are deeply concerned at this Inspectors decision which seems to completely erode the local democratic process. There is considerable anger that this speculative development has been allowed to proceed to the detriment of the local community and environment within a village that has more than met its obligations for the provision of new housing. I very much hope that the Secretary of State will be able to respond positively to these concerns.

Yours sincerely,

Sue Wallsgrove

Chair, Planning & Environment Committee
Barnham and Eastergate Parish Council

Enclosure: Copy of Appeal Decision

Copy sent to: Andrew Griffith MP