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Arun District Council – Planning Department
Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

For the attention of Case Officer Amber Willard

Planning Application No BN/16/22/PL
Erection of 4 No dwellings with associated car parking, rear of Clare
Court, 67 Barnham Road, Eastergate

Dear Ms Willard

My wife and I write to enlarge upon our objection in relation to trees, contained in our earlier letter dated 15 March 2022 (18/03/22 on the Arun planning website).

**OBJECTION – THE REQUIRED TREE SURVEY INFORMATION
SUBMITTED BY THE APPLICANT CONTAINS A MISLEADING
REPRESENTATION OF MATERIAL FACTS**

SUMMARY

The planning application *does not meet Policy requirements in relation to trees*. We show below how the tree survey report, as submitted, gives a false and misleading representation of trees on the development site. We believe there has been a serious abuse of the planning process and it appears to us that the applicant has attempted to drive a coach and horses through the planning requirements.

We therefore **object strongly** to this development and substantiate our objection as follows:

1. PLANNING REQUIREMENTS AS TO TREES

- 1.1 Policy ENV DM4 (ALP) “requires development proposals to be supported by tree surveys that take a comprehensive view of trees *at an early stage in the design process*”. It goes on to say that “development works *should not have a negative impact on existing trees*” and “it should be **demonstrated** how existing trees will be *retained* and *protected* on site”. This is mentioned in the Pre-Application Advice PAA 50/50/21 (Section headed PROTECTED TREES on page 7).
- 1.2 Policy ES10 requires new developments to *retain* ancient trees or *trees or hedgerows of good arboricultural and amenity value*.
- 1.3 According to the Pre-Application Advice, second paragraph under the heading Area of Special Character, “Trees and hedges are important in the street scene . . .”.
- 1.4 We show below that all of these requirements and principles have been violated by the applicant.

2. APPLICANT’S RESPONSIBILITIES AS TO REPORTING TREES

- 2.1 The applicant was required, as part of the planning application, to provide a Tree Survey and Arboricultural Report (Pre-Application Advice, first complete paragraph, page 9).
- 2.2 It is axiomatic that the tree survey should present a truthful account of the trees on the proposed development site.
- 2.3 We show in this objection letter that the tree survey report as submitted by the applicant withholds information that is key to the planning process.

3. CARRYING OUT OF THE TREE SURVEY

- 3.1 Section 6.6.1 of the Planning Statement states that a Tree Survey and Arboricultural Impact Assessment has been carried out for the scheme. It goes on to say that *no trees require removal or pruning to enable the development to go ahead*. This is based on paragraph 6 of the Summary of the tree survey report.

- 3.2 The tree survey was carried out on **Tuesday 20 July 2021**. This is stated in section 6.1 of the report. Any reasonable person would therefore infer that the information given and the assertions made in the tree survey report represent *the position as at that date*, unless clearly stated otherwise. This is notwithstanding that the version date and number of the document is December 2021 V1.0 (footer to every page in the document).
- 3.3 Section 5.1 of the tree survey report asserts that the site survey included in the Tree Plan at Appendix 3 “*contains the location of all trees ... of material consideration*”
- 3.4 The report therefore represents that it deals with *all* trees of material consideration within the Development Site Plan that were present on 20 July 2021, the date of the survey.

4. SCOPE OF TREE SURVEY REPORT

- 4.1 The tree surveyor represents that “I have inspected ALL the trees of material consideration *within and immediately adjacent to the proposed development site*. The trees to which this applies are listed at Appendix 1 as T1 to T4 inclusive and annotated on the Tree Plan at Appendix 3.” (Tree Survey Report – Summary).
- 4.2 The boundaries of the development site are clearly shown, marked out in red, on the Proposed Site Plan ref 1474/05f. The development site can be seen to extend from the main road to the border with St Philip Howard School.
- 4.3 Identical development site boundaries are clearly shown in the Tree Constraints Plan (Appendix 3 to the report) by means of dark grey shading with dots and dashes.
- 4.4 The Proposed Site Plan Drawing showing the site boundaries is dated 5th March 2021. The surveyor will therefore have had this document available to him when he carried out the survey.
- 4.5 The presumption must be, therefore, that the surveyor knew (i) the extent of the development site, (ii) what he was looking for, and (iii) where to look. He was also fully aware of the date as at which he was gathering information for the report.

- 4.6 The tree surveyor is therefore asserting that **all** trees of material consideration which were present on 20 July 2021 within the clearly marked out site boundary were inspected and reported on.

5. MATURE CONIFERS EXISTING AS AT 20 JULY 2021 BUT NOT DECLARED

- 5.1 On the day the Tree Survey was undertaken - 20 July 2021 - two tall, beautiful, very substantial conifers stood a few metres from the entrance to the Clare Court driveway, within the rounded border on the right – all ***within the boundary*** of the development site. The rounded border is not shown in either the Proposed Site Plan 1474/05f or the Tree Constraints Plan, but it is clearly marked out in the Existing Site Plan 1474/04b on the right of the drive.
- 5.2 One of these conifers was a magnificent aged Yew about 40 feet in height, which we understand to have been around 400 years old. The stump is still there in the rounded border. Its diameter is approximately 800 mm at the base.
- 5.3 The other conifer was a Scots pine of similar height. Again, the stump is still present in the rounded border. Its diameter is approximately 800 x 550 mm at the base.
- 5.4 Both of these trees were visibly in good condition and were an important and special part of the visual amenity of Clare Court, the street scene and our Area of Special Character. Their amenity value and arboricultural value was obvious to countless witnesses who saw them every time they passed by the front of Clare Court.
- 5.5 There can therefore be no doubt that these trees were of material consideration and fell within the requirements of Policy ENV DM4 (ALP) and Policy ES10.
- 5.6 These trees are plainly visible in Google Earth images of the site dated April 2015 and September 2019, and in the latest available Google Maps image. One can readily gauge the magnitude of the trees from these images.
- 5.7 Further photographic evidence can be furnished if required.

6. OTHER TREES PRESENT ON THE DAY OF THE SURVEY

- 6.1 In addition to these conifers, other mature trees were present on the day of the Tree Survey.
- 6.2 These include two fine mature apple trees, a few metres from the border between Clare Court and the back of our house, 71 Barnham Road (there is no No. 69). These, too, are plainly visible in the Google Earth images.

7. FAILURE TO DECLARE THE CONIFERS

- 7.1 The Yew and the Scots pine were manifestly within the area of the Development Site Plan. But although they were present on the day of the tree survey, they have ***not been declared*** in the tree survey report. There is no reference to them whatever in the report.
- 7.2 How could the conifers possibly have been missed, and how could they possibly have been deemed not to be of material consideration and not to have been subject to policy requirements?

8. FELLING OF THE CONIFERS

- 8.1 The Yew and the Scots Pine were ***felled*** on Tuesday 28 September 2021, ***more than two months AFTER the Tree Survey was carried out.*** We witnessed them being cut down. The resulting loss to the visual amenity of the area is irreparable.

9. THE CONIFERS STOOD IN THE WAY OF CONSTRUCTING THE ACCESS ROAD TO THE PROPOSED NEW HOUSING

- 9.1 The Site Development Plan shows that the edge of the proposed new access drive for the development is **2 metres** from the border with our property, 71 Barnham Road, according to the scale shown on that plan.
- 9.2 The Yew tree stood where the access road is shown in the Site Development Plan, approximately 14 metres from the drive entrance. Its base extended to approximately **2.5 metres** from the border with No 71. Thus, the base of the tree is located approximately **half a metre** into the proposed access road.

- 9.3 The Scots Pine also stood where the access road is shown in the Site Development Plan, approximately 8 metres from the drive entrance. Its base extended to approximately **2.3 metres** from the border with No 71, again partly within the positioning of the new access road to the extent of approximately **30 centimetres**.
- 9.4 The arithmetic is simple, and its implications are obvious: ***It would not be possible to construct the access road according to the submitted plans without first destroying the Yew and the Scots Pine***, both of which were required by the planning polices to be protected and retained.
- 9.5 This is despite the assertion in the tree survey and in Section 6.6.1 of the Planning statement that ***no trees require removal or pruning to enable the development to go ahead.***

10. OTHER TREES OF QUALITY WERE ALSO REMOVED IN THE RUN-UP TO THE PLAN BEING SUBMITTED TO ARUN

- 10.1 In addition to the conifers, two fine mature apple trees stood a few metres from the border between Clare Court and the back of our house, 71 Barnham Road (there is no No. 69). These, too, are plainly visible in the Google Earth images. These apple trees also stood in the way of constructing the access road. They, too, were present on the day the survey took place, but not declared.
- 10.2 Several other trees were felled in the period leading up to the submission of the plans, as reported by others who have submitted comments. Obviously, they are all missing from the Tree Survey.
- 10.3 We believe that the destruction of trees to which Planning Policy applies in the run-up to the application, so that they could not be properly taken into account in the required manner, is ***a serious abuse of the planning process.***
- 10.4 The ***only*** trees on the site for which removal was justified, were a group of wild poplars which had become dangerous and whose invasive roots systems had caused serious damage to our lawn and garden, lifting paving slabs and causing us a great deal of work. Also, two other trees which had become dangerous. These were removed in July 2019 at our request, two years before the conifers and other trees were destroyed.

11. THE TREE SURVEY APPEARS TO US TO PRESENT A FALSE AND MISLEADING PICTURE AS TO THE TREES ON THE DEVELOPMENT SITE

- 11.1 We have shown that key information has been withheld from the Planning Authority, and from anyone else reading the planning application documents, by way of the omission of significant trees that were present at the time of the tree survey.
- 11.2 Many trees required by Policy to be given special consideration were removed before they could be properly considered in relation to the application.
- 11.3 Far from it being demonstrated “how existing trees will be *retained* and *protected* on site” as required by Policy ENV DM4 (ALP), existing trees have been *hidden from the Planning Authority* by being felled before the planning application was submitted.
- 11.4 The tree surveyor would have known of the existence of the conifers and the apple trees at the time of the survey on 20 July 2021 but did not include them in his report.
- 11.5 If the tree surveyor and the applicant had really intended the tree survey to show the position as at December 2021 rather than the date of the survey, 20 July 2021, this should have been clearly stated. It is not so stated.
- 11.6 Furthermore, had the intention been to show the position as at December 2021, there should have been a full account of any reporting, discussions and authorisations concerning the Yew and the Scots Pine which were *required to be protected* and which “disappeared” between July 2021 and December 2021. No such account is given.

12. THE APPLICANT HAS SUBMITTED AN APPARENTLY FALSE AND MISLEADING ACCOUNT OF TREES ON THE SITE

- 12.1 The applicant is ultimately responsible for the veracity of the information submitted in support of their application. Therefore, by virtue of the facts presented above, it appears that the applicant has provided untrue, and therefore misleading, information in support of this proposed development.

13. OTHER MISLEADING STATEMENTS IN THE PLANNING APPLICATION IN RELATION TO THE SITE

- 13.1 The first line of Section 3 of the Design Access Statement, under the heading “Proposed Development” says “the Planning Application seeks to make efficient use of an *unused field* within the built-up area boundary of Barnham”.
- 13.2 The applicant is here asserting two things. Firstly, that the area for development is a “**field**”, and secondly, that it is “**unused**”.
- 13.3 Both assertions referred to in 13.2 above are misleading in the following ways:
- a. Our next door neighbour’s back garden at No 67 Barnham Road *never was a field*. From Edwardian times until the late 1980s when the applicant bought the property, it was a large domestic garden belonging to a large house. We can remember how it was in 1984 when my parents built what is now our house; it was a typical garden of a size commensurate with the size of the house, with lawn, borders, trees, shrubs and a pond.
 - b. From the time the applicant bought the property, it has been largely uncared for, with wild poplars being allowed to grow uncontrolled up to a height of around 75 feet. It was, nevertheless, a garden.
 - c. It is only in the last two years that the garden has resembled anything like a field. This is because the applicant has systematically stripped it of trees and shrubs in anticipation of building on it. Again, recent Google Earth and Google Maps satellite images of the site tell the whole story. These satellite images provide damning evidence as far as this planning application is concerned.
 - d. As to the statement that the alleged “field” is “within the built-up area boundary of Barnham” (suggesting, seemingly, that it is available to be built on), as far as we are aware all the houses within this “built-up area boundary of Barnham” have gardens. Is the applicant suggesting that all these gardens are available to be built on?

- e. The applicant also asserts that the alleged “field” is “unused”. We can testify that we have observed that the garden has been *in use* from time to time by residents of Clare Court and their families over many years, for leisure and enjoyment. This was with the applicant’s permission. However, we understand that in July 2021 the applicant *told the residents to stop using the field*. The applicant now turns around and represents that the alleged “field” is “unused” in order to support the planning application. Need we say more?

14. OTHER RELEVANT FACTORS

- 14.1 **Arun District Council must surely have been aware** of the existence of the trees that were felled – their Pre-Application Advice PAA/50/21 is dated 3 June 2021. This is more than three months before the trees described in sections 5 and 6 above were destroyed. Arun will have conducted at least one site visit and cannot possibly have missed seeing these superb massive conifers dominating the drive entrance prior to their being destroyed on 28 September 2021.

15. CONCLUSION

- 15.1 The Council has said in the Conclusion to its Pre-Application Advice (page 8) that “were an application for planning permission to be submitted it would be likely to be approved *subject to compliance with policy*”.
- 15.2. We have demonstrated *a gross failure to comply with policy*, involving:
 - a. the removal of numbers of trees before they could be properly accounted for and considered in relation to the application, many of these being trees that stood in the way of development. Two in particular were of arboricultural and amenity value and were a vital part of the street scene, contributing greatly to our Area of Special Character.
 - b. an apparent attempt to conceal the existence of these trees and thus *represent that they were never there*.
 - c. the submission of a planning application that contains false representations as to trees on the proposed development site as at the date when the tree survey was carried out.

- 15.3 If Arun approves this development, it will be seen to endorse and approve the manipulative tactics employed by this developer and will encourage others to do the same.
- 15.4 We are sure that Arun will not wish to be seen as working hand in hand with any developer who uses deception in order to defeat planning policy and thereby get approval for development.
- 15.5 This is an opportunity for Arun to demonstrate its integrity and make clear to all concerned that it will not tolerate such conduct.
- 15.6 In view of all the above, we believe it is incumbent on the Planning Authority to **refuse** the application.

Yours faithfully,

Christopher and Grace Smith