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26 March 2010

**For the attention of Mr N Crowther**

Principal Planner, Strategic Development Team  
Planning Services  
Arun District Council

**BY E MAIL ONLY**

Dear Mr Crowther

**Planning Application BN/27/09 – Angels/Hyde Nurseries Barnham**

I write to address the Objection letter dated 25 March 2010 that you have received from Strutt & Parker in respect of this application. Strutt & Parker are promoting a site elsewhere in Barnham for residential development on behalf of the landowners and their representation should, we would suggest, be considered in that light.

The letter suggests 5 putative reasons for refusal which can be grouped and addressed under the following headings.

**Departure from the Development Plan, Prematurity & PPS3 Housing**

The Development Plan comprises the South East Plan (SEP) and “saved” policies from the Arun District Local Plan (ADLP).

The submitted information explains how the proposals accord with relevant Policies in the South East Plan and following rigorous examination ADC Officers advise (quite rightly in our view) that the proposals are consistent with the Spatial Strategies set out in the SEP as well as those relating to managing the delivery of the housing provisions for Arun District.

Therefore the proposals do not depart from this part of the development plan and there is no basis for a refusal in this respect as suggested by this objector.

It is acknowledged that the site lies outside the built up area of Barnham as defined in “Saved” Policy GEN 2 and that the proposals therefore conflict with “saved” policy GEN 3. It is also acknowledged that these “saved” policies remain part of the development plan and are not superseded by the SEP.

Once again, however, ADC Officers conclude and advise (quite rightly in our view) that since these ‘saved’ policies were adopted some time ago other material considerations (in particular the emergence of later national and regional policy and the emerging LDF evidence base which lend support for the proposals despite this conflict) must be afforded considerable weight in this case.

The Council has yet to make a choice between the published options for the location of strategic growth in the district via the emerging LDF but in all 3 options proposed the Council acknowledges that smaller Greenfield sites (like the subject site) would need to be found in addition to identifying suitable locations for “sustainable urban extensions” to be accommodated on much larger greenfield sites.

Moreover the Councils SHLAA states that this site is considered suitable in principle for housing because of its accessibility to facilities, job opportunities and public transport, there are no insurmountable constraints and that the site could contribute to the creation of a sustainable, mixed community by yielding up to 95 dwellings over the 5 year period 2010 - 2015.

Therefore whilst the emerging LDF has not yet reached a stage where it can be of any significant weight in decisions on individual planning applications it is a material consideration (albeit one of limited weight) and does support the release of this site for the development proposed.

The objection letter suggests that the proposals are premature pending the outcome of the LDF process.

The degree to which the issue of “prematurity” can be material to the determination of individual planning applications is explicitly addressed at paragraphs 17 – 19 of the supplement to PPS1 **The Planning System: General Principles (SPPS1)** and paragraph 72 of **PPS 3 Housing**.

SPPS1 makes it clear that where the emerging LDF is at consultation stage, with no early prospect of submission for examination, a refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question and Paragraph 72 of PPS3 states that where a 5 year supply of housing land cannot be identified Local Planning Authorities should not refuse individual applications for housing solely on the grounds of prematurity.

Paragraph 19 of SPS1 states that where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the LDF process and there is no evidence in this case that would support a refusal on such grounds.

It is accepted that development should, as a matter of preference, be plan led but ongoing delays mean that the production of the LDF is still in its early stages so that there is no early prospect of it being submitted for examination or early adoption. This means that the resolution of the preferred plan led solution to the long term needs for housing (particularly affordable housing) by way of large scale “sustainable Urban Extensions” within the district is still some way off being delivered and we would suggest that in the meantime the Council should consider releasing suitable small scale sites like this for housing development to meet the shorter term needs.

These issues have led to 3 successive appeal decisions relating to individual housing sites in Arun District (Council references Y/37/07, LU/85/08 & BE/47/09). All 3 appeals considered evidence relating to the availability of a 5 year supply of housing land in Arun District and in all 3 cases the Inspectors concluded that the shortfall is considerably greater than that claimed by the Council.

In the most recent case (BE/47/09) the Inspector concluded on the basis of the evidence provided that the appellants’ estimate of a 30% shortfall in the supply for 2010 - 2015 was to be preferred to the Councils estimate of about 5%.

Paragraph 71 of PPS 3 Housing states that where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites, for example, where Local Development Documents have not been reviewed to take into account policies in this PPS or there is less than five years supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in paragraph 69.

In this case the Council has not reviewed the “saved” Policies in the Local Plan to take account of PPS 3 and is unable to demonstrate an up to date 5 year supply of deliverable sites so there is a requirement for the application to be assessed on the basis of the criteria in PPS 3 Paragraph 69.

The Objector suggests that the site is not suitable for housing based on its environmental sustainability credentials contrary to one of the criteria in paragraph 69 of PPS 3.

This view is not supported by the Council in its published SHLAA, Barnham Parish Council, ADC Officers or us.

Indeed we note that in its letter of support dated 27 March 2010 the Parish Council states that:

***“Were the Parish Council able to select a location for new development, the Angel's/Hyde End Nursery site would probably be the place it would choose. It is in the heart of the parish, not on the fringes. Although beyond the nominal “built-up area”, there is already significant housing on Yapton Road eastwards towards Yapton until just beyond Parsonage Farm, plus planning permission for more houses, so the site is not in the “rural gap” between Barnham and Yapton, which properly starts after Barnham Windmill. It is directly located on the main B2233 through-road, and in close proximity to Murrell's Field where we are in the process of building a new Community Hall scheduled to open by 2013. The new hall will no doubt alter the focus of the village, and new homes nearby would enhance this shift.”*** and complements the submitted proposals by stating:

***“BN/27/09 is a sustainable well-designed low density housing scheme with a blend of standard and affordable 2 & 3 bedroom housing in a variety of styles and good use of open space, in keeping with the existing character of the parish. Whilst it is still somewhat concerned, Council believes that arrangements for sewerage and drainage are adequate. Our sewers can probably cope with 95 more homes in this particular location, but certainly no more than that without exacerbating the already serious problems in the northern part of the village.”***

Needless to say we concur with the views of Barnham Parish Council.

#### **The Environment Agency & Ground water flood risk.**

The Objector bases their reasoning in this respect on out of date information. Following initial concerns the EA has now withdrawn their objection in this regard based on later information provided by the applicants Drainage Consultants and this and other unrelated concerns relating to Foul Water disposal have been addressed under separate cover.

#### **The need for further ecological surveys**

The Objectors concerns are considered to more mischievous than evidence based in this regard. All the submitted information and relevant consultee responses clearly demonstrate that the limited potential for the presence of protected species in this case can be addressed by way of standard precautionary conditions on any outline planning permission (as recommended by officers) in accordance with paragraphs 12 – 16 of PPS 9 and SEP Policy NRM5.

Therefore we conclude that the Objector has provided no evidential based planning arguments that would warrant any alteration to the advice/recommendations made by ADC Officers in their Committee report and/or a refusal of permission as they suggest and urge.

Yours sincerely

**Paul Collins BA (Hons) DipTP MRTPI**  
Director

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25<sup>th</sup> March 2010

Dear Mr Crowther

**Re: Angels & Hyde Nurseries, Yapton Road, Barnham  
Planning Application: BN/27/09**

I am writing on behalf of my clients, Epitair Ltd and Eric Wall Holdings Ltd, who own and occupy land to the south of Lake Lane, Barnham. My clients wish to object to the planning application by West Sussex County Council on land at Angels and Hyde Nurseries, Barnham.

In reviewing the application documentation for the outline application for the redevelopment of the site with up to 100 residential units, a number of issues emerge. Firstly, it is evident that the site is liable to groundwater flooding. In order to ascertain the level of groundwater storage available which affects SUDS and any other mitigating measures proposed, the applicant should conduct a minimum of 12 months borehole monitoring. This has not been done and the FRA relies on a single borehole that became defunct in 1997. We therefore consider the application does not benefit from adequate information to mitigate against this issue. The letter from the EA to Arun District Council on 16<sup>th</sup> March 2010 states that *"there may be a solution to the surface water drainage but they have concerns as to whether the proposed scheme would work on the basis of permeable paving only"*. As the FRA has not conducted adequate borehole monitoring of the site a question mark remains over this issue. The Council should adopt a precautionary approach to this matter unless adequate information is made available to assess the situation properly.

We are also aware that the Environment Agency maintains its objection concerning the development's connection to the main foul sewerage system. The Southern Water consultation response considers there to be inadequate capacity for foul sewerage. Although they suggest a condition if development is permitted, the condition would in our view, be "Ultra Vires" when assessed against Circular 11/95: The use of Conditions in Planning Permissions. The applicant should provide sufficient information to overcome this issue, or the application should be refused.

The site is divorced from the settlement of Barnham and sequentially is less favourable than other sites that are available and will come forward as part of the emerging LDF. A number of sites were identified as part of the Strategic Housing Land Availability Assessment (SHLAA). The application site was also put forward for development. The SHLAA views the application site (site ref 145) as having potential for development, but concludes that the site should **only** come forward in association with the adjacent site, BA2 (Land and Nurseries to the south of Yapton Road). The application is therefore considered piecemeal development, contrary to a significant background document that forms part of the emerging Development Plan.



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Paragraph 71 of PPS3 allows Authorities to approve planning applications where they fail to demonstrate a 5 year housing land supply. This is in accordance with paragraph 69 that states that Local Planning Authorities should have regard to, amongst other things, the suitability of a site for housing, including its environmental sustainability. We suggest that the site is not suitable for housing based on its environmental sustainability credentials. It represents an incongruous extension to the built-up area.

The Regional Spatial Strategy at policy SP3 (iii), seeks to ensure that development is located in and around urban areas, including new urban extensions. Sites should be well designed and consistent with the principles of urban renaissance and sustainable development. The Regional Spatial Strategy goes on to stipulate at policy SP3 (iv) that Local Authorities should use Strategic Land Availability Assessments to identify the scope for redevelopment and intensification of urban areas, seeking opportunities for intensification around transport hubs and interchanges. It is clear that the Strategic Housing Land Availability Assessment has considered this site and believes it should only come forward in conjunction with the surrounding land. To approve the application at this stage would, in our view, go against policy SP3 of the Regional Spatial Strategy.

Additionally, there is potential for badgers and reptiles on site. The principle of the development should not be considered acceptable until the Council is confident that suitable mitigation measures are available. This cannot be considered until further surveys are conducted. This point was again raised in the Environment Agency's letter of 16<sup>th</sup> March 2010. The application should therefore be refused on the basis of a lack of information to adequately assess the protected species present, their numbers and if a suitable mitigation strategy can be employed at all on this site to account for them post development.

In conclusion, my client objects to the development and we consider the application should be refused for the following reasons:

- The application is premature and a departure from the Development Plan.
- There is insufficient information to adequately assess groundwater flooding on site and further information is required.
- The Environment Agency maintains an objection to the application.
- Further ecological surveys are required to establish if a suitable mitigation strategy can be employed on the site.
- The application does not conform to National guidance in the form of PPS3 or the Regional Spatial Strategy at policy SP3.

Yours sincerely



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**Associate – Planning & Development**