

PLANNING STATEMENT

**LAND AT ANGELS NURSERY, YAPTON ROAD,
BARNHAM**

ON BEHALF OF REDROW HOMES LIMITED

PROPOSAL

**SECTION 73 APPLICATION FOR THE CONTINUANCE OF
DEVELOPMENT WITHOUT COMPLIANCE WITH CONDITION 2
ATTACHED TO PLANNING PERMISSION BN/93/19/PL AND
CONSEQUENTIAL CHANGES TO THE OTHER CONDITIONS
FOLLOWING COMMENCEMENT OF DEVELOPMENT**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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1. INTRODUCTION AND BACKGROUND

1.1 This Planning Statement has been prepared on behalf of Redrow Homes Limited ("the Applicant"). It relates to a Section 73 application to continue with development without compliance with condition 2 imposed on planning permission BN/93/19/PL in respect of Land at Angels Nursery, Yapton Road, Barnham ("the application site").

1.2 This application follows the recent decision of Arun District Council ("the LPA") to refuse a similar s.73 application to vary Conditions 2, 8 and 18 imposed on an earlier planning permission BN/43/16/PL (application ref: BN/131/19/PL).

1.3 That earlier planning permission (ref. BN/43/16/PL) was approved in May 2017 for a development comprising:

"95 No. dwellings together with access, landscaping open space & associated works."

1.4 At the same time that the LPA was considering (the now refused) application BN/131/19/PL, it approved a separate Section 73 application in February 2020 for the following development (application ref: BN/93/19/PL):

"Continuance of use without compliance with condition 18 following the grant of planning permission BN/43/16/PL relating to 'the development, hereby permitted, shall not be occupied until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation with the Local Highway Authority'."

1.5 Given that this is now the most up to date planning permission for the site (and it has also since been implemented), this latest application is now made pursuant to that planning permission.

1.6 The now submitted application essentially seeks to revisit the reasons for refusal cited by the LPA when it refused application BN/131/19/PL. The Decision Notice identifies two Reasons for Refusal (RfR) which read as follows:

1. Condition 2 should not be varied for the following reason:

The layout, the lack of footway and cycleway connectivity to the surrounding area, the lack of visitor parking spaces, the non-SHMA compliant housing mix, the clustering of the affordable housing, the disproportionate concentration of higher density development in the south eastern corner of the

site, the lack of open space and the loss of a protected tree and development within the root protection area of protected trees result in a development that has an unacceptable layout, housing mix, connectivity and design causing harm to the future occupiers of the development and the character of the area contrary to Policies D DM1, AH SP2, T SP1, T DM1 and ENV DM4 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP.

2. Condition 8 should not be varied for the following reason:

The proposed alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design.

- 1.7 A copy of the Decision Notice and the Delegated Report are attached at Appendices 1 and 2 respectively.

APPENDIX 1 – DECISION NOTICE BN/131/19/PL

APPENDIX 2 – DELEGATED REPORT

- 1.8 The Applicant does not accept that the previous proposals were unacceptable. However, and without prejudice to any appeal that may follow, the Applicant wishes to work with the LPA to see if there is a mutually acceptable solution.
- 1.9 The Applicant would have preferred to negotiate on the previous scheme, but unfortunately that opportunity was not presented to them because the LPA refused the s.73 application without any warning being given to the Applicant. It has therefore become necessary to submit a further application to resolve the issues raised in the two RfR.
- 1.10 This revised s.73 application responds to the issues identified in the RfR. As noted above, this application is submitted on a without prejudice basis and any departure from the refused scheme does not represent an acceptance on the part of the Applicant that the previous proposals are in any way unacceptable.

2. SITE LOCATION AND DESCRIPTION

- 2.1 The application site is located at the village of Barnham which falls within the administrative area of Arun District Council.
- 2.2 Barnham lies between the settlements of Yapton and Eastergate with Littlehampton and Bognor Regis further afield. The application site is in close proximity to the village centre which has a range of shops and services including access to a railway station which provides links to Bognor Regis, Chichester, Southampton, Brighton, London and beyond. The village is also served by bus routes providing connections to Bognor Regis and Walberton.
- 2.3 The application site comprises a generally rectangular and flat site that was formerly in horticultural use. The site is located on the south side of Yapton Road and extends to around 3.5 hectares in size.
- 2.4 To the west of the application site there is Barnham Community Hall and neighbouring residential development that fronts the access road to the hall. There are playing fields, known as Murrells Field, to the south of the community hall.
- 2.5 To the north, on the opposite side of Yapton Road, at the former tree nursery, there is a development of 44 dwellings which has now been completed.
- 2.6 To the east, immediately adjacent to the appeal site, is the former Lillies Caravan Park which has been cleared and it is also to be developed for housing, with 38 dwellings.
- 2.7 To the south of the application site are commercial glasshouses accessed off Hill Lane.
- 2.8 The application site is situated in Flood Zone 1, as classified by the Environment Agency, meaning that it is in the zone with the least probability of fluvial and tidal flooding.
- 2.9 The sustainable management of surface water will be ensured through a surface water drainage strategy. Foul water drainage will discharge to the existing foul drain towards the northern boundary of the appeal site.
- 2.10 There are no Listed Buildings within, adjacent to or close proximity of the application site and nor is the site within or adjacent to a Conservation Area.

2.11 The application site is not subject to any statutory or non-statutory landscape or ecological designations.

3. PLANNING HISTORY

The Application Site

- 3.1 The application site has an extensive planning history. The table below provides a summary of the most relevant planning applications and appeals:

Application ref	Description of development	Decision
BN/131/19/PL	Application for variation of conditions imposed on planning reference BN/43/16/PL relating to Conditions 2 (Approved Plans), 8 (Access/Maintenance of Watercourse or Culvert) and 18 (Access and Associated Off-Site Highway Works).	Refused 12 th March 2020
BN/93/19/PL	Continuance of use without compliance with condition 18 following the grant of planning permission BN/43/16/PL relating to 'the development, hereby permitted, shall not be occupied until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation with the Local Highway Authority'.	Approved 28 th February 2020 Implemented April 2020
BN/42/18/PL	Variation of condition 2 imposed under BN/43/16/PL relating to approved plans.	Approved 31 st December 2019
BN/28/18/NMA	Application for a non-material amendment following a grant of planning permission BN/43/16/PL relating to minor changes to the siting of some plots primarily those on the frontage to Yapton Road.	Approved 26 th July 2018
BN/43/16/PL	95 No. dwellings together with access, landscaping open space & associated works.	Approved 3 rd May 2017
BN/29/13/	Application for approval of reserved matters following Outline approval BN/27/09 for demolition of all existing structures and redevelopment with 86 dwellings together with associated open space, landscaping and access improvements.	Approved 14 th March 2014 Implemented March 2016

BN/27/09/	Outline application for demolition of all existing structures and redevelopment with up to 95 dwellings (including up to 38 affordable homes) together with associated open space, landscaping and access improvements.	Refused 9 th April 2010 Appeal Allowed 6 th January 2011
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- 3.2 The principle of residential development is well established and development has already commenced on the application site. The previous owner of the site implemented permission BN/29/13 for 86 dwellings in March 2016. This is accepted and is not disputed by the LPA.
- 3.3 The Applicant as the new owner of the site also undertook works in April 2020 to implement the latest s.73 permission BN/93/19/PL.
- 3.4 The planning history of the site represents an important material consideration in this case as it represents a fallback position.

Planning History Relevant to the Surrounding Area

- 3.5 In addition to the application site, there has been a number of planning applications submitted and approved for development in the surrounding area.
- 3.6 To the west of the application site, a replacement village hall together with the erection of 8 houses on the former village hall site have been constructed following planning permission granted in July 2009 (LPA ref: BN/3/09/).
- 3.7 To the east of the application site lies the site known as Lillies Caravan Park. Applications have been submitted on the land for the following developments:

Application ref	Description of development	Decision
BN/6/18/RES	Approval of reserved matters following outline consent BN/32/15/OUT relating to appearance, landscaping, layout & scale for erection of 38 No. dwellings including open space, landscaping & new access (resubmission following BN/28/17/RES)	Refused 23 rd July 2018 Appeal allowed 14 th January 2019
BN/28/17/RES	Approval of reserved matters following outline consent BN/32/15/OUT relating to appearance, landscaping, layout & scale for erection of 38 No. dwellings including open space, landscaping & new access	Refused 19 th January 2018 Appeal Dismissed 14 th January

		2019
BN/32/15/OUT	Outline application with all matters reserved for the erection of 38 No. dwellings including open space, landscaping & new access.	Approved 5 th April 2016

- 3.8 Opposite the application site on the north side of Yapton Road to the rear of the existing detached properties, outline planning permission was granted on appeal in January 2013 for the erection of 44 dwellings (LPA ref: BN/7/12/). An application for the approval of reserved matters was granted in October 2015 (LPA ref: BN/26/15/RES). This development is now complete.

4. THE APPLICATION PROPOSALS

4.1 The submitted application is made pursuant to Section 73 of the Town and Country Planning Act and seeks permission for:

“Continuance of development without compliance with condition 2 attached to planning permission BN/93/19/PL and consequential changes to the other conditions following commencement of development.”

4.2 The application essentially seeks to substitute the approved plans listed in condition 2 with more up to date and better suited plans (revised site layout, house types and landscaping etc)

4.3 The previous planning permission (BN/93/19/PL) remains extant as the Applicant commenced works prior to 3rd May 2020.

4.4 Even if this was to be disputed by the LPA, the permission remains extant in any event. This is because due to the Covid-19 pandemic the Ministry of Housing, Communities and Local Government (MHCLG) issued a statement on the 22nd June 2020 confirming measures to enable development with consents that would lapse between 23rd March and 31st December 2020 are to be extended until 1st April 2021.

4.5 Accordingly, the planning permission (if it had not been implemented) would not expire until 1st April 2021.

4.6 The Applicant is therefore entitled to submit a further S73 application against the planning permission on the same basis as the previously refused S73 application.

4.7 This application seeks planning permission to develop the land without compliance with condition 2. Condition 2 lists the previously approved plans and this application seeks to substitute them with updated plans as detailed below:

Original permission BN/43/16/PL		Proposed S73 application	
Title	Reference	Title	Reference
Site Plan	2124-02 A	Site Layout	P19-0723-10 Rev K
Site Plan Showing Public Open Space Areas	2124-127 B	Landscape Masterplan	P19-2044_01 Rev D
House Type Plans	2124-03 to 2124-120 inclusive	House Type Pack	P19-0723_11D June 2020
Garage Plans	2124-121 to 2124-124	House Type Pack	P19-0723_11D June 2020

Original permission BN/43/16/PL		Proposed S73 application	
Title	Reference	Title	Reference
Bin and Cycle Store Plans	1224-125A to 2124- 126	House Type Pack	P19- 0723_11D June 2020

Other Consequential Changes

- 4.8 When considering a S73 application there is need to ensure that any other conditions that are attached reflect the latest position with the land (i.e. previous conditions should not automatically be reimposed).
- 4.9 As Officers will be aware, the previous planning permission included a number of pre commencement conditions, but the planning permission has now been implemented. It would be inappropriate to reimpose or attach new pre commencement conditions to any new permission. Instead the conditions ought to be refreshed to relate to the latest scheme and/or where appropriate refer to documentation that has previously been approved.
- 4.10 The Applicant would like to engage with the LPA to agree any conditions in advance of a decision being made.

5. PLANNING POLICY FRAMEWORK

- 5.1 This section identifies the planning policies and guidance that will be of most relevance to the consideration of this application.

National Guidance

National Planning Policy Framework

- 5.2 National policy is set out in the Government's National Planning Policy Framework (NPPF) published in July 2018, with minor clarifications made in February 2019. This replaced and updated the previous NPPF 2012.

Introduction

- 5.3 Paragraph 1 explains how the NPPF sets out the Government's planning policies for England and how these should be applied.
- 5.4 Paragraph 2 explains that planning law requires applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.

Achieving Sustainable Development

- 5.5 Paragraph 7 explains the purpose of the planning system is to contribute to the achievement of sustainable development.
- 5.6 Paragraph 8 sets out three overarching objectives to achieving sustainable development, namely: economic, social and environmental. These are interdependent and need to be pursued in mutually supportive ways.

The Presumption in favour of sustainable development

- 5.7 Paragraph 10 confirms that at the heart of the Framework is a presumption in favour of sustainable development.
- 5.8 Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 continues to state that for decision-taking this means:

“(c) Approving development proposals that accord with an up-to-date development plan without delay; or

(d) Where there are no relevant development plan policies, or the policies which are most important for

determining the application are out-of-date (7), granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (6); or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole"

5.9 Given that the LPA is unable to demonstrate a five year housing land supply, paragraph 11d(ii) is engaged in this case.

5.10 Paragraph 12 confirms that the NPPF does not change the statutory status of the Development Plan as the starting point for decision making.

Decision-making

5.11 Paragraph 7 explains that LPAs should approach decision on proposed development in a positive and creative way. Decision-makers at every level should seek to approve applications for sustainable development where possible.

5.12 Paragraph 47 reaffirms that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. It goes on to say that decisions on application should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the Applicant in writing.

Delivering a sufficient supply of homes

5.13 Guidance in relation to housing is provided at paragraphs 59 to 79. The Government's clear and over-arching requirement is to significantly boost the supply of housing to meet identified needs and to promote growth. Paragraph 59 states:

"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."
(our emphasis)

5.14 It is important to recognise that the Government is keen to improve the supply of housing and this will require LPAs to assist in bringing suitable sites forward for development at the earliest opportunity in the plan period.

5.15 The Applicant is aware that the application site forms part of the five year housing land supply of the LPA and as reported in the latest Annual Monitoring Report published in December 2019 the LPA is only able to demonstrate a **3.7 year** supply. The supply position is dire on any assessment and the timely delivery of this site will make a valuable contribution towards ensuring that this does not deteriorate further.

Achieving well-designed places

5.16 Guidance on design is set out at paragraphs 124 to 132. Paragraph 124 sets out the importance of good design in sustainable development and that planning policies should be clear about design expectations as this is essential to achieving well designed places.

5.17 Paragraph 127 seeks to ensure that developments:

"Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

- 5.18 The guidance at 130 summarises the approach advising that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. It goes on to state that conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

Meeting the challenge of climate change, flooding and coastal change

- 5.19 Paragraphs 148-169 advises LPAs when determining planning to applications they should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding.

National Planning Practice Guidance

- 5.20 In March 2014 the Government issued revised and updated Planning Practice Guidance (PPG). This new national planning guidance is intended to provide a simplified and clear guide to the planning system, making it more accessible and easier to keep up to date. It supersedes a plethora of existing technical guidance.

National Design Guide

- 5.21 In October 2019 the Government published the National Design Guide (NDG) to illustrate how well-designed places that are beautiful, enduring and successful can be achieved in practice.
- 5.22 It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. In addition to informing development proposals and their assessment by LPAs, it supports paragraph 13 of the NPPF which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way in functions.

The Development Plan

- 5.23 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

5.24 At the time of writing, the statutory Development Plan covering the appeal site comprised the following:

- Arun Local Plan 2011-2031; and
- Barnham and Eastergate Neighbourhood Development Plan.

Adopted Arun Local Plan

5.25 The Arun Local Plan was adopted in July 2018 and covers the plan period up to 2031.

5.26 The Local Plan sets out the vision for the future of Arun and the strategic vision is underpinned by 'objectives' which set out aspirations for how Arun can change over the plan period up to 2031. It contains a suite of policies which aim to achieve the vision and objectives. The Local Plan's 'strategic policies' set out the overall strategy for Arun and further detail for managing development is set out in the 'development management' policies. The Plan is to be read as a 'whole'.

5.27 The proposals map that sits alongside the Local Plan shows the application site (Map 2) as being located within the 'Built-up Area Boundary' for Barnham. The site is not allocated for residential or any other form of development, but it benefits from a planning permission that has been implemented.

5.28 The proposals map also shows that the application site is not located within a Conservation Area and nor are there any landscape, ecology or other heritage designations that directly affect the site.

5.29 Policies referred to in the RfR and other of relevance to the consideration of this application include:

5.30 **Policy SD SP1 (Sustainable development)** sets out a presumption in favour of sustainable development stating that:

"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the social, economic and environmental conditions south of the National Park through to the coast and throughout its settlements..."

- 5.31 **Polices SD SP1 (Built-up Area Boundary)** relates to the approach to development proposed within the established settlement boundaries across the District. For the purposes of the application site, it is located within the settlement boundary of Barnham.
- 5.32 **Policy D SP1 (Design)** advises that all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details. Development proposals should have been derived from: a thorough site analysis and context appraisal; adherence to objectives informing sustainable design (inclusivity, adaptability, security, attractiveness, usability, health and wellbeing, climate change mitigation and habitats); and the influence these objectives have on the form of the development. Furthermore, **Policy D DM1 (Aspects of form and design quality)** provides the development management criteria that will be used for the consideration of any application for development.
- 5.33 **Policy H DM1 (Housing mix)** advises that the Council will seek a mix of dwelling types and sizes, to include affordable homes, that adhere to the latest Homes and Communities Agency design guidance. For developments of 11 homes or more the Council shall require a balanced mix of market and affordable dwelling sizes including family sized accommodation based on the most up to date SHMA recommendations.
- 5.34 The tenure mix for development schemes shall be negotiated on a case by case basis taking any necessary viability considerations into account. Developers shall have regard to the most up to date version of the SHMA. Over the Plan period a proportion of the housing provided should be of a type that meet the needs of older people, as identified in the most recent SHMA. Such housing could be provided as part of the general mix of one and two bedroomed homes but should be designed to meet the needs of older people.
- 5.35 **Policy AH SP2 (Affordable housing)** advises for all developments of 11 residential homes or more the Council will require a minimum 30% of the total number of homes proposed on site to be provided as affordable housing on the same site in the first instance. It goes on to advise that the Council will negotiate the affordable housing tenure mix, require affordable housing to be visually indistinguishable from the open market housing, large groups of single tenure dwellings or property types to be avoided, affordable homes to be provided in

small clusters, a specific affordable housing mix to be applied, etc. It should be noted that Local Plan does not define what is meant by a small cluster.

- 5.36 **Policy T SP1 (Transport and Development)** advises that the Council will ensure that developments provide safe access on to the highway network, contributes to highway improvements, promote sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network, and ensure the ease of movement, prioritising safe pedestrian and cycle access to the green infrastructure network. Furthermore, **Policy T DM1 (Sustainable Travel and Public Rights of Way)** provides the development management criteria that will be used for all new developments to ensure ease of movement, prioritising safe pedestrian and cycle access to the green infrastructure network and access to public transport and community transport services where a need has been identified.
- 5.37 **Policy ENV DM4 (Protection of trees)** explains that development will be permitted where it can be demonstrated that trees protected by a Tree Preservation Order(s), (TPO) identified as Ancient Woodland, in a Conservation Area or contributing to local amenity, will not be damaged or destroyed now and as they reach maturity, unless development would (i) result in the removal of one or more trees in the interest of good arboricultural practice, (ii) enhance the survival and growth prospects of other protected trees, (iii) the benefits of the proposed development in a particular location outweigh the loss of trees or woodland, especially ancient woodland.
- 5.38 **Policies ECC SP1 (Adapting to climate change)** and **ECC SP2 (Energy and climate change mitigation)** deal with adapting to the impacts of climate change and energy efficiency measures.
- 5.39 **Policy W DM3 (Sustainable Urban Drainage Systems)** states that to increase the levels of water capture and storage and improve water quality, all development must identify opportunities to incorporate a range of Sustainable Urban Drainage Systems (SUDS), appropriate to the size of development, at an early stage of the design process. Proposals for both major and minor development proposals must incorporate SUDS within the private areas of the development in order to provide source control features to the overall SUDS design.

Barnham and Eastergate Neighbourhood Plan

- 5.40 The Barnham and Eastergate Neighbourhood Plan (NP) was adopted in July 2014 and covers the plan period from 2014 to 2029. The only policy referred to in the RfR from the NP is:
- 5.41 **Policy GA2 (Footpath and cycle path network)** advises that support will be given to proposals that improve and extend the existing footpath and cycle path network, allowing greater access to new housing, the village centres, green spaces and the open countryside. The loss of existing footpaths and cycle paths will be resisted.
- 5.42 The LPA will be aware that to the extent that a policy contained in a Development Plan for an area conflicts with another policy in the Development Plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the Development Plan.

Arun District Parking Standards SPD

- 5.43 In October 2018, West Sussex County Council consulted upon the 'West Sussex County Council Guidance on Parking at New Developments May 2019'. The purpose of this document was to provide guidance across the County on parking standards and to update the standards that were adopted in 2010.
- 5.44 Arun District Council used this document and the data behind it to prepare a Supplementary Planning Document (SPD) for Arun District to be used in the determination of planning applications.
- 5.45 The SPD was published by the Council in October 2019 and adopted in January 2020.

Emerging Development Plan Documents

Arun Design Guide

- 5.46 The emerging Arun District Design Guide Supplementary Planning Document (SPD) is intended to provide further detail to the design policies of the adopted Local Plan. The Design Guide will set out the Council's expectations with regards to the design quality of new development, and for the preservation, conservation and enhancement of the built and natural environment.

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- 5.47 A Consultation Draft of the emerging Design Guide was published in January 2020 and the consultation ran from 9th January 2020 to 21st February 2020. It is unclear when the Design Guide is intended to be adopted. It cannot be afforded any significant weight at this stage.
- 5.48 The LPA will also be aware that SPDs do not have the same status of a Development Plan Document.

6. RESPONSE TO THE PREVIOUS REASONS FOR REFUSAL

- 6.1 The purpose of this section is to explain how the Applicant has responded to the issues raised in the LPA's previous Reasons for Refusal (RfR). The two RfR are addressed in turn below.

Reason for Refusal 1

- 6.2 RfR No.1 relates to the proposed changes to Condition 2. The original condition lists the previously approved plans but the LPA was unwilling to substitute these with the latest plans that were submitted by the Applicant.
- 6.3 The RfR raises a number of specific issues relating to connectivity to the surrounding area, visitor parking, housing mix, clustering of affordable housing, density of part of the site, open space, loss of a protected tree and development in Root Protection Area (RPA) of protected trees. The full RfR reads as follows:

"Condition 2 should not be varied for the following reason:

The layout, the lack of footway and cycleway connectivity to the surrounding area, the lack of visitor parking spaces, the non-SHMA compliant housing mix, the clustering of the affordable housing, the disproportionate concentration of higher density development in the south eastern corner of the site, the lack of open space and the loss of a protected tree and development within the root protection area of protected trees result in a development that has an unacceptable layout, housing mix, connectivity and design causing harm to the future occupiers of the development and the character of the area contrary to Policies D DM1, AH SP2, T SP1, T DM1 and ENV DM4 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP."

- 6.4 The Applicant would respond as follows:

Pedestrian and Cycle Connectivity

- 6.5 The Delegated Report (DR, pg.10) for the refused application advises that the layout lacked footway and cycleway connectivity to the surrounding area, in particular linking to the Lillies site in the south east corner of the site and the Murrells Field site in the south west corner of the site.
- 6.6 The previously submitted plans already included connections up to the boundary of the site. Some adjustments have been made to the links but the principle of

providing these connections is supported by the Applicant and the latest layout proposals allow for them to be provided up to the site boundaries.

Visitor parking

6.7 The Arun District Parking Standards SPD (January 2020) recommends at Paragraph 3.3 that visitor parking will be required to be provided at a ratio of 20% of the total number of homes. In the case of the proposed development this would equate to 19 visitor spaces.

6.8 Visitor parking spaces are now clearly identified on the plan and meet the requirements of the SPD.

Housing mix

6.9 The housing mix hereby proposed in this application comprises the following:

Dwelling Type	Number of homes					
	Market		Affordable		Total	
1 bed houses	0	0%	8	29%	8	8%
2 bed flat	0	0%	9	32%	9	9%
2 bed houses	4	6%	11	39%	15	16%
3 bed houses	30	45%	0	0%	30	32%
4 bed houses	33	49%	0	0%	33	35%
TOTAL	67		28		95	

6.10 While the housing mix approved under the full planning permission BN/43/16/PL granted in May 2017 comprised of the following:

Dwelling Type	Number of homes					
	Market		Affordable		Total	
Studio flats	0	0%	4	14%	6	6%
1 bed flat	0	0%	2	7%		
2 bed houses	13	20%	22	79%	35	37%
3 bed houses	37	55%	0	0%	37	39%
4 bed houses	17	25%	0	0%	17	18%
TOTAL	67		28		95	

6.11 In the consideration of the previous application the Case Officer concluded that (DR, pg. 12):

- The housing mix approved in the 2017 full planning permission was not SHMA compliant;

- The layout comprises detached, semi-detached and terraced houses (town houses) and 1 apartment building which provide for variety not only in housing size but type;
- The overall market and affordable mix provides for a range of dwelling sizes from 1, 2, 3 and 4 bed flats and houses;
- There is agreement from the Housing Officer that the provision of studio properties is not appropriate on this site. This was confirmed in the pre-application advice from the LPA where the studio flats for shared ownership was considered to be undesirable and the preference was for these to be replaced by larger dwellings in the new planning application (ref: PAA/86/19).
- The development delivers over half of the overall scheme as 2 and 3 bed dwellings; and
- This is consistent with the objectives of the SHMA in providing a focus on family housing across a range of housing sizes and types whilst also providing a proportion of smaller 1 bed homes overall.

6.12 The Case Officer however concluded the previous application included a large number of 4 bed homes compared to the recommended proportion in the SHMA update and that it would be inappropriate to approve any scheme that has a housing mix which would be worse than that previously approved (DR, pg. 12).

6.13 The issue in terms of housing mix therefore reduces down to the number of 4 bedroom homes proposed.

6.14 Entirely without prejudice to the Applicant's position on this issue, the adopted Local Plan through Policy H DM1 and paragraphs 12.2.2 to 12.2.4 makes it clear that each scheme will be considered on a case by case basis and requirements will vary across the District. There is no requirement to be SHMA compliant as erroneously suggested in the RfR.

6.15 Insofar as the market housing is concerned, Barnham is a village location suited to the provision of more family housing whilst also providing opportunities for downsizers and those looking to climb the housing ladder. Barnham is not an urban town or a city location which might lend itself to a higher density of development with an increased number of smaller homes.

- 6.16 The SHMA takes a District-wide view and it provides an average indicative mix. For every higher density scheme in an urban area which often provides more smaller house types and fewer family sized homes, there will be a need for sites on the edges of towns and village locations to deliver schemes with a higher proportion of larger homes (and in character with the existing built form in such locations).
- 6.17 The site itself also lends itself to the proposed housing mix. It responds to the context of the site and the need for carefully considered transitions between built development, areas of open space and surrounding countryside. It is therefore considered that the proposed mix is appropriate in the context of Policy H DM1, as the village location of the site and its individual characteristics lend themselves to the approach that has been followed.
- 6.18 For the avoidance of doubt, no objections were raised to the affordable mix in the previous application and it therefore remains unchanged in this application.

Clustering of affordable housing

- 6.19 Policy AH SP2 of the adopted Local Plan advises that affordable housing must be visually indistinguishable from market housing with large groupings of single tenure dwellings or property types avoided. Affordable housing shall be permitted in small clusters throughout development schemes.
- 6.20 In the DR (pg. 12) the Case Officer concluded that the layout include large groups of affordable housing clustered in the apartment building and the back-to-back houses in the south eastern part of the site, and the terraced and semi-detached houses in the centre of the site.
- 6.21 As a starting point, the adopted Local Plan does not define a maximum size of a cluster for affordable housing. The policy text simply refers to "small" clusters and the supporting text to the policy does not provide any clarification or further guidance.
- 6.22 The LPA will be aware that Registered Social Landlords do not like layouts that pepper pot homes sparingly around sites for management reasons. Furthermore, given the need profile for affordable housing it tends to be that the need is for smaller homes rather than larger ones.

- 6.23 The Applicant has however amended the clustering of the affordable housing by relocating four affordable homes previously located towards the south-eastern corner of the site (formerly Plots 34 to 37) to the western boundary of the site adjacent to the community hall (Plots 85 to 88). The distribution of the remaining affordable housing remains as previously proposed.
- 6.24 The revision to the layout now creates four small clusters of affordable housing across the site:
- Plots 16 to 23 – comprising 8 x 1 bed houses;
 - Plots 24 to 32 – comprising 9 x 2 bed flats;
 - Plots 40 to 46 – comprising 7 x 2 bed houses; and
 - Plots 85 to 88 – comprising 4 x 2 bed houses.
- 6.25 These clusters are considered to be small, despite there being no definition of 'small' in the adopted Local Plan.
- 6.26 The affordable housing will continue to be visually indistinguishable from the market housing on the site and there would be no issues of integration.
- 6.27 The proposed development would therefore be in accordance with Policy AH SP2 of the adopted Local.

Density (south east corner of the site)

- 6.28 The Case Officer states in the DR (pg.10) that the layout of the site in the previous application was unacceptable as it needed to ensure a more equal distribution of densities across the site so as to ensure a balanced development across the whole site.
- 6.29 The previous application proposed a density of 36 dwellings per hectare (dph) across the site and this remains unchanged in the application hereby submitted.
- 6.30 This compares favourably with the Matthew Homes development on the Lillies site adjoining the eastern boundary of the site. That development has a density of 32 dph.

- 6.31 It is pertinent to note that the Parish Council raised no objections to the proposed development and the single local resident that submitted a representation did not raise this as an issue (or indeed any other design or layout issues).
- 6.32 The matter of concern rests solely with LPA and it relates to in their words "*...the disproportionate concentration of higher density development in the south eastern corner of the site*".
- 6.33 The Case Officer however acknowledged the requirement in Policy D DM1 of the adopted Local Plan to make efficient use of land and that density of large sites should be varied to guard against uniformity [DR, p.g.10].
- 6.34 Accordingly, it is right that there are different character areas within the site and the density is a contributory factor in creating a sense of place in these areas and avoiding uniformity.
- 6.35 The apartment building has been located in the south-eastern corner of the site to book-end with the approved apartment building on the adjacent Lillies site. The Case Officer commended the building in design terms in the previous application by reason of its siting and layout that could provide an attractive landmark building (DR, pg. 9).
- 6.36 However he found it unacceptable due to the siting of the apartment building on an area previously shown as public open space (POS). The POS in the implemented scheme however did not take account of the rising main running across the site and it would therefore be challenging for the Applicant to deliver the POS as intended. The apartment building therefore remains in the same location as previously proposed but its massing has been amended. The back-to-back houses have also been repositioned to provide better surveillance of the Lillies POS and allow opportunities for landscaping to be integrated across the two sites. The Buxton house types located along the southern boundary have also been relocated eastwards to opposite the apartment block, where the Tavy house type were previously located. These properties are now relocated to the western part of the site. The combination of the amendments therefore responds positively to the concern of the LPA regarding the density of this corner of the site.
- 6.37 It remains the firm view of the Applicant that the density of the development and its composition across the site was acceptable in the previous application and

continues to remain acceptable in the development as now proposed. Accordingly, there would be no conflict with the relevant policies in the adopted Local Plan.

Open Space

6.38 The layout of the POS in the previous application broadly reflects that approved in the 2017 full planning permission. That being three main areas of POS comprising:

- An area of POS at the front of the site, facing onto Yapton Road;
- Another area of POS within the western part of the site; and
- An area of POS with potential for an attenuation basin which runs along the southern boundary of the site.

6.39 The Case Officer was however concerned that the previous application included less POS than that shown in the approved layout for the 2017 planning permission (DR, pg.8).

6.40 The Leisure and Landscape Officer in their consultation response accepted that the layout positioning of the POS had not significantly changed from the original permission. They go on to advise that the layout of the previous application improved in the overall quantity of POS being offered however the area of deemed usable POS would still appear insufficient for 95 dwellings, with much of the large open area allocated to SuDS features.

6.41 As a starting point, the POS requirement for the site is set using the ADC Open Space, Playing Pitches, Indoor and Built Sports Facilities SPD (January 2020). The requirement for the application site would be 0.67ha. This is calculated on the following basis:

- $3.2 \text{ (quantity guideline)} \times 209 \text{ (population)} / 1000 = 0.67\text{ha}$

6.42 The next step is to consider the POS provided as part of the proposed development against the 2017 planning permission to ascertain whether the site is under-providing when considering the history of the site. A breakdown is therefore provided below:

- **2017 full planning permission** – 5,269 sqm (0.53ha), representing 96% of the 0.55ha SPG requirement applicable at the time.
- **Current application** – 5,310 sqm (0.53 ha), representing 79% of the 0.67ha SPD requirement now in force. However, if judged against the previous SPG requirement of 0.55ha it would represent 96% provision.

6.43 The current application would therefore provide more POS than the 2017 planning permission.

6.44 Both the 2017 planning permission and the proposed development in this S73 application are however deficient in terms of POS, but purposefully so. In the determination of the application for the 2017 planning permission the LPA acknowledged that the adjoining Lillies site only provided 50% of the required POS on-site and an open space contribution of £1,000 per home was secured so that additional play equipment could be provided off-site. This approach was also taken in granting the 2017 planning permission.

6.45 Accordingly, the proposed development in this application still provides a quantum of POS that far exceeds the proportion provided on-site at the adjoining Lillies site, is only marginally less than the level of POS of the 2017 planning permission if judged against the older SPG requirement, and the current scheme proposes a potential play area on-site which did not form part of the 2017 planning permission.

6.46 Furthermore, the issue needs to be considered in a wider context where the application site sits between a new residential development which will provide an area of POS to the east (Lillies site) and an area of playing fields and a play area to the west (Murrells Field) – both of which will be readily accessible by foot and bicycle links, while still providing POS on the application site itself.

6.47 Therefore, on balance, the proposed development is considered acceptable in terms of POS provision. Particularly when taking into account that the financial contributions secured by the 2017 planning permission in the Unilateral Undertaking will continue to apply to the site through a Deed of Variation to be agreed. This includes the provision of a Community Facility Contribution that will provide a sum of money for works at Murrells Field for, inter alia, improvements to the playing field and creating access from the application site to Murrells Field to enable the new residents to access the playground, trim trail, MUGA and hall.

Loss of protected tree and development in RPA of protected trees

- 6.48 The RfR makes reference to the loss of a protected tree and development being within the root protection area of protected trees.
- 6.49 In terms of the loss of a protected tree, the Case Officer refers to this as the T75 Pine tree at the main entrance to the site and that its loss is unfortunate (DR, pg. 9).
- 6.50 In coming to this conclusion, the Case Officer has failed to acknowledge that the LPA has already allowed for T75 to be felled under consent BN/29/13 which was implemented by the previous owner of the site – as confirmed in the Officer Report for BN/43/16/PL in the section entitled 'Conclusions'. The tree was also shown to be removed in the 2017 planning permission. Furthermore, and more recently, the LPA approved drawings in April 2020 showing the removal of the tree when discharging Condition 15 (tree protection measures) of the S73 permission BN/93/19/PL (application ref: BN/29/20/DOC). To sustain this part of the RfR would therefore be unwarranted in the circumstances.
- 6.51 With regarding to the impact of the proposed development within the root protection area (RPA) of protected trees, again it is to pertinent to examine the precedent set by the LPA in the determination of previous applications on the application site. The below table has been prepared to assist with the consideration of this issue:

Tree Ref	Work Activity	Total RPA (sqm)	Impact BN/29/13 86 homes RM	Impact BN/42/18/ PL S73 ¹	Impact Current S73 application
T2, T3, T4, T6	Installation of low impact access road	1260	413 / 33%	376 / 30%	295 / 23%
T12	Installation of low impact paving slabs to serve front entrance	222	17 / 8%	80 / 36%	28 / 13%

- 6.52 Firstly, the above table demonstrates that the LPA have previously approved development that has some impact on the RPA of protected trees at the

¹ S73 to the 2017 permission that only sought minor changes to the elevations of the dwellings – so the layout remained as approved in BN/43/16/PL.

application site. Secondly, the previously approved schemes at the site would have overall, a greater impact on the RPA of protected trees.

- 6.53 Therefore, the development proposed in this application has a lesser impact on the RPA of protected trees than that previously accepted by the LPA. To sustain this part of the RfR would therefore be unwarranted in the circumstances.

Summary

- 6.54 The Applicant has revisited the proposals and has sought to respond to the LPA's concerns. Where changes have not been made, the Applicant has provided a reasoned justification. Overall it is considered that the proposals accord with Policies D DM1, AH SP2, T SP1, T DM1 and ENV DM4 of the adopted Local Plan, Policy GA2 of the Barnham and Eastergate NP, and the guidance set out in the Arun District Parking Standards SPD.

Reason for Refusal 2

- 6.55 RfR No.2 relates to the variation of Condition 8 that concerns the arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site. The RfR states:

"Condition 8 should not be varied for the following reason:

The proposed alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design."

- 6.56 The Case Officer was concerned that the pond size and location could change as the result of having to satisfy Condition 3 (surface water drainage scheme) and consequently the layout could be affected depending on the outcome of the detailed design (DR, pg. 13).
- 6.57 The LPA seems to have erred in the consideration of the proposed variation to the condition. The purpose of the condition is to fix the layout of the development in order to allow access to the ditches.
- 6.58 The layout of the development in the previous application proposed a 3m offset so that access could be maintained to the ditches. This remains unchanged from the previous application and the LPA are invited to reconsider this matter.

-
- 6.59 Surface water drainage will continue to be subject of a separate discharge of condition application in respect of Condition 3.
- 6.60 The LPA will be aware that extensive discussions have taken place in respect of Condition 3 through the discharge of condition application submitted pursuant to the February 2020 S73 permission BN/93/19/PL. These discussions pre-date the submission of this new S73 application and the layout of the development as proposed has been informed by these discussions. The layout of the development is therefore now fixed and unlikely to change. It would therefore be unreasonable for the LPA to continue to resist the variation of this condition as proposed.

7. CIL AND SECTION 106

Community Infrastructure Levy

- 7.2 This S73 application relates to a full planning permission that was granted prior to the introduction of the CIL charge in the Local Authority area. There would be a limited increase in gross internal area from 8,571.7 sqm to 10,149.9 sqm.
- 7.3 The current scheme would therefore be liable for the increase of 1,578.2 sqm.

Section 106 Agreement

- 7.4 The application site is already subject to a Unilateral Undertaking when full planning permission BN/43/16/PL was granted in May 2017. The 2017 permission was varied by the S73 permission BN/93/19/PL granted in February 2020 and was subject to a Deed of Variation to ensure the S106 Agreement continued to remain in force except for varying the definition relating to the Community Facility Contribution.
- 7.5 Given the nature of the application proposals, it is not anticipated that there will be a need for any additional planning obligations, but a Deed of Variation will however be necessary on a similar basis to the S73 application recently approved.

8. SUMMARY AND CONCLUSIONS

- 8.1 This Planning Statement has been prepared in support of a S73 application in connection with a development of 95 dwellings on Land at Angels Nursery, Yapton Road, Barnham.
- 8.2 The application seeks permission for the continuance of development without compliance with Condition 2 attached to planning permission BN/93/19/PL and consequential changes to the other conditions following commencement of development.
- 8.3 This S73 application follows a similar application that was refused in March 2020 and responds to the issues identified in the two RfR. The current application is submitted on a without prejudice basis and any departure from the refused scheme does not represent an acceptance on the part of the Applicant that the proposals were in any way unacceptable. Instead, the Appellant is committed to finding a negotiated, mutually acceptable position.
- 8.4 The Applicant is very keen to deliver new housing (including the much needed affordable housing) in line with national planning policy and guidance and the Development Plan. The Applicant is aware that the application site forms part of the five year housing land supply of the LPA and as reported in the latest Annual Monitoring Report published in December 2019 the LPA is only able to demonstrate a **3.7 year** supply. The supply position is dire on any assessment and the timely delivery of this site will make a valuable contribution towards ensuring that this does not deteriorate further.
- 8.5 The housing land supply position means that the tilted balance is engaged², and the LPA will also be aware of the need to support economic recovery particularly given the severe impact that the Covid 19 pandemic has had both locally and nationally³. The Government has also recognised the adverse impact of the pandemic on the housebuilding industry and sought to extend the life of planning permissions. When the application is viewed through these optics, it is hoped that this application can now be approved in its revised form.
- 8.6 The Applicant would welcome and encourage dialogue with Officers so that the application can be progressed quickly towards a favourable determination.

² NPPF paragraph 11d and footnote 7

³ NPPF paragraph 80

APPENDIX 1
DECISION NOTICE BN/131/19/PL

Application for Planning Permission

DECISION NOTICE

Application Ref: BN/131/19/PL

1 To Addressee

Mr A Jones
Pegasus House
Querns Business Centre
Whitworth Road
Cirencester
GL7 1RT

2 Site Address

Land At Angels Nursery
Yapton Road
Barnham
PO22 0AY

3 Description of Development

Application for variation of conditions imposed on planning reference BN/43/16/PL relating to Conditions 2 (Approved Plans), 8 (Access/Maintenance of Watercourse or Culvert) and 18 (Access and Associated Off-Site Highway Works).

4 In pursuance of their powers under this Act and related Orders and Regulations the Council **REFUSE** to approve the development as described in the application and plans for the reasons stated.

1 Condition 2 should not be varied for the following reason:

The layout, the lack of footway and cycleway connectivity to the surrounding area, the lack of visitor parking spaces, the non-SHMA compliant housing mix, the clustering of the affordable housing, the disproportionate concentration of higher density development in the south eastern corner of the site, the lack of open space and the loss of a protected tree and development within the root protection area of protected trees result in a development that has an unacceptable layout, housing mix, connectivity and design causing harm to the future occupiers of the development and the character of the area contrary to Policies D DM1, AH SP2, T SP1, T DM1 and ENV DM4 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP.

2 Condition 8 should not be varied for the following reason:

The proposed alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed

design.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.



Neil Crowther
Group Head of Planning

Case Officer: Michael Eastham

Decision Issued: **12th March 2020**

Arun District Council
The Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must send notice to the Local Planning Authority and Planning Inspectorate(inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found at www.GOV.uk

PURCHASE NOTICES

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on

highway land).

APPENDIX 2

DELEGATED REPORT

Recommendation Report for Planning Permission

REF NO: BN/131/19/PL

LOCATION: Land At Angels Nursery
Yapton Road
Barnham
PO22 0AY

PROPOSAL: Application for variation of conditions imposed on planning reference BN/43/16/PL relating to Conditions 2 (Approved Plans), 8 (Access/Maintenance of Watercourse or Culvert) and 18 (Access and Associated Off-Site Highway Works).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This is a Section 73 application to vary Condition 2, Condition 8 and Condition 18 imposed on planning permission (BN/43/16/PL) on Land at Angels Nursery, on Yapton Road, in Barnham.

Condition 2 comprises a list of the approved plans as part of the existing planning permission (BN/43/16/PL). This Section 73 application proposes amendments to the detailed design of the scheme in terms of the site layout, the design of several house types and the approved landscaping.

Condition 8 relates to arrangements for the future access and maintenance of any watercourse or culvert crossing or abutting the site.

Condition 18 is a pre-commencement condition which relates to the site access and associated off-site highway works.

RELEVANT SITE HISTORY

BN/43/16/PL	95 No. dwellings together with access, landscaping open space & associated works.	App Cond with S106 03-05-17
BN/42/18/PL	Variation of condition 2 imposed under BN/43/16/PL relating to approved plans.	ApproveConditionally 31-01-19
BN/93/19/PL	Continuance of use without compliance with condition 18 following the grant of planning permission BN/43/16/PL relating to 'the development, hereby permitted, shall not be occupied until the access and associated off-site	

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highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation with the Local Highway Authority'.

BN/58/15/PL	Erection of 9 No. dwellings.	Refused 22-02-16
BN/51/15/PL	Variation of condition No.1 imposed under planning reference BN/29/13/ relating to approved plans	Refused 18-02-16
BN/29/13/	Application for approval of reserved matters following Outline approval BN/27/09 for demolition of all existing structures and redevelopment with 86 dwellings together with associated open space, landscaping and access improvements.	ApproveConditionally 14-03-14

Planning permission (BN/43/16/PL) has been granted for the development of 95 dwellings on the former Angel's Nursery site. However, development has not commenced on the site and none of the conditions imposed on the planning permission have been discharged.

There is a Section 73 permission (BN/42/18/PL) for minor changes to the elevations of all 95 dwellings that have already been granted planning permission (BN/43/16/PL). The Section 73 permission varied Condition 2 which was imposed on the planning permission (BN/43/16/PL). Condition 2 lists all of the submitted plans that have been approved under BN/43/16/PL including the elevations and floor plans of all 95 dwellings. The approved changes were to the windows, and the removal of windows; to the external doors on the elevations of the houses and apartments; to increase the ridge heights of the roofs from between 49mm and 375mm at the most; together with amendments to the roof heights of the double garage roofs; and removing a chimney from one of the plots.

A rising main was laid by Southern Water along the front of the site in February / March 2016.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Barnham & Eastergate Parish Council

No objection.

A letter of representation has been received from a local resident objecting to the proposed development on the following grounds:

- The removal of the requirement in permission BN/43/16/PL for a pumping station for foul water.
- The proposed attenuation basin is reduced in size from that previously approved under BN/43/16/PL.

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COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

WSCC Strategic Planning
 Engineering Services Manager
 Engineers (Drainage)
 Southern Water Planning
 Environment Agency
 Environmental Health
 Parks and Landscapes
 Arboriculturist
 Sussex Police-Community Safety
 Ecology Advisor
 Archaeology Advisor
 Conservation Officer

CONSULTATION RESPONSES RECEIVED:**LOCAL HIGHWAY AUTHORITY:**

The Local Highway Authority requested more information and modifications to the proposed layout as set out in the plans submitted for Condition 2. These modifications to the layout have not been submitted:

- The previously approved layout showed a footway/cycleway connection to the Murrells Field site which should be re-instated;
- The previously approved layout showed a footway/cycleway connection to the neighbouring Lillies development site which should be re-instated;
- The proposed layout shows a distinct lack of visitor parking;
- A plan should be submitted showing the proposed extent of adoption and what areas are to remain private;
- Confirmation is needed that the central features on the central private access road and the southern private access roads would permit through movement of vehicles;
- Tie-in points where conventional roads with footways change to shared surface need to be shown clearer;
- Cycle provision for all properties without garages needs to be shown;
- Cycle access provision to enable cyclists to enter and leave the shared-use path and highway which was previously shown opposite plot 59 needs to be re-shown;
- Access to car parking for Plot 86 appears to be too tight/restrictive and should be amended;
- Service margin widths should be a consistent 2.0 metres wide; and
- An access plan for fire appliances and refuse vehicles should be provided in order to demonstrate that all properties meet the required access requirements.

The Local Highway Authority raises no objection to the proposed amended wording to Condition 18.

SOUTHERN WATER:

No objection. There are restrictions on the proposed tree planting adjacent to Southern Water's sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting.

ENVIRONMENT AGENCY:

No comments to make.

ADC DRAINAGE:

Object. The proposed alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design.

ADC ENVIRONMENTAL HEALTH:

No comments to make.

ADC GREENSPACE:

Object. ADC Greenspace objects to the quantity of Public Open Space (POS) being proposed, albeit layout, positioning not having changed significantly from the original approved application. The provision of SuDS areas and no clear detail of the nature of these and therefore the potential to further deplete the usable POS within this development would conclude that POS provision within the site does not meet the ADC Open Space SPD requirements.

ADC ARBORICULTURAL OFFICER:

No consultation response submitted.

ADC ECOLOGICAL ADVISOR:

No objection.

ADC CONSERVATION OFFICER:

Whilst there are no heritage assets on the site, Ivy Cottage Listed Building and Luccombe Cottage Listed Building; The Old School House and The Murrell Arms Locally Listed Buildings; and Church Lane Conservation Area are within close proximity. Having undertaken an assessment of the location of the heritage assets and considered the visibility between them and the application site, it is considered that the development would not cause harm to the assets or their settings. It is considered that the proposed development would not harm the significance of the heritage assets due to their location and there is plenty of existing development and/or trees and vegetation which will mean that there is no inter-visibility between them.

SUSSEX POLICE:

No objection. The development needs to be constructed to Secured by Design standards. Additional visitor parking bays should be provided around the site. The proposed layout plan shows side paths between plots 73 and 33, between plots 36 and 37 and between plots 46 and 47. It is preferable that footpaths are not placed at the back of properties. If they are essential to give rear access they must be gated and be capable of being key locked from either side.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and issues addressed in the Conclusions section below.

POLICY CONTEXT

Designation applicable to site:

Within the Built up Area Boundary (BUAB) in the Arun Local Plan.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

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AHSP2	AH SP2 Affordable Housing
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCDM1	ECC DM1 Renewable Energy
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
HERDM6	HER DM6 Sites of Archaeological Interest
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

<u>Barnham & Eastergate Neighbourhood Plan 2014</u> <u>POLICY ES1</u>	Applications for new development must meet the local drainage requirements
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES10	Trees and hedgerows
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES5	Quality of design
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES6	Contribution to local character
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES8	Buildings should be designed to reflect the three-dimensional qualities of traditional buildings
Barnham & Eastergate Neighbourhood Plan 2014 POLICY GA2	Footpath and cycle path network
Barnham & Eastergate Neighbourhood Plan 2014 POLICY GA4	Parking and new development
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H3	Housing mix
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H4	Integration of new housing into surroundings
Barnham & Eastergate Neighbourhood Plan 2014 POLICY H5	Outdoor space

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Barnham and Eastergate Neighbourhood Plan (2014-2029) was made in July 2014. Relevant Neighbourhood Plan (NP) policies have been taken into account and are addressed in the Conclusions section of this report.

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 does not comply with the Development Plan due to the layout of the development, the lack of on-site public open space and the lack of cycleway and footway connections to Murrells Field and to the Lillies site. This would result in a development of unacceptable quality causing harm to the amenities of the occupiers of the development and other material interests.

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**PRINCIPLE**

The principle of residential development was established with the granting of planning permission (BN/29/13/) for 86 dwellings in 2014. In early 2016, the applicant sought to increase the number of dwellings to 95 but the two re-plan applications were refused due to the layout, design, and lack of public open space.

In March 2016 the approved application (BN/29/13/) was about to commence when the applicant discovered that the Southern Water sewer pipe, that crossed the site was 20 metres out of line from the Southern Water plan. This resulted in the developer seeking to re-plan the site to take account of the pipeline. The amended site layout was granted planning permission (BN/43/16/PL) on 3rd May 2017 for the development of 95 dwellings on the site.

The residential use of the site at Angels Nursery has clearly been established, however, no construction works have commenced on the site.

VARIATION OF CONDITION 2

Part of the current Section 73 application is to vary Condition 2, which was imposed on planning permission (BN/43/16/PL) on the Angels Nursery site and lists all of the approved plans, including the layout plans.

This Section 73 application proposes amendments to the detailed design of the scheme in terms of the site layout and the design of certain house types and the approved landscaping.

The application proposes to substitute approved plans with the set of plans listed below:

- Drawing No. P19-0723_10 - Site Layout, November 2019.
- Drawing No. P19-0723_09 Rev. A - Public Open Space Plan, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 16 - Tavy Middle Elevations AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 17 - Tavy Middle Floor Plans AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 18 - Apartments Front Elevation AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 19 - Apartments Side Elevation AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 20 - Apartments Rear Elevation AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 21 - Apartments Side Elevation AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 22 - Apartments Ground Floor Plan AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 23 - Apartments First Floor Plan AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 24 - Apartments Second Floor Plan AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 25 - SP2 Elevations AH (Brick), November 2019.
- Drawing No. P19-0723_11 - Sheet No. 26 - SP2 Ground Floor Plan AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 27 - SP2 First Floor Plan AH, November 2019.
- Drawing No. P19-0723_11 - Sheet No. 28 - Single Garage Elevations and Floor Plan (Brick), Nov.19.
- Drawing No. P19-0723_11 - Sheet No. 29 - Twin Garage Elevations and Floor Plan (Brick), Nov. 2019.
- Drawing No. P19-0723_11 - Sheet No. 30 - Bin Store Elevations and Floor Plan, November 2019.
- Drawing No. P19-2044_01 - Landscape Masterplan, November 2019.

Policy D SP1 (Design) of the Local Plan says: "all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details". Policy D DM1(2 - appearance / attractiveness) of the Local Plan requires applications to "demonstrate a high standard of architectural principles, use of building materials, craftsmanship and hard and soft landscaping to reflect the local area".

Policy ES6 of the Barnham and Eastergate NP says: "new development should contribute positively to the character of the two villages, and should reflect the design qualities of their time, so that the richness of varied character continues and is extended into the future".

Policy H4 of the Barnham and Eastergate NP says: "proposals for residential development should be of high quality, and designed so that the new housing integrates into its surroundings and is well connected to the village".

An assessment of the proposed site layout and character; density, scale and massing is set out below.

SITE LAYOUT

Policy D DM1(1 - Character) of the Local Plan says "when considering any application for development

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to have regard to make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping and design features". Policy D DM1(10 Layout - movement) of the Local Plan requires "any application for development to utilise existing networks or improve access via delivery of a variety of integrated networks, to and from residential areas, commercial zones, open spaces, facilities and public transport. Development schemes should carefully consider walking and cycling as an integral part of the overall design concept". Policy D DM1(10 Layout - legibility) of the Local Plan requires any application for development "deliver or contribute to the ease of navigation within a new or existing development scheme through use of focal points (landmarks, gateways, vistas, corner buildings, active edges, existing topography), and/or a variety of detail within the public realm (sculpture, planting, street furniture, building materials, building details, signage).

Policy ES8 of the Barnham and Eastergate NP says: "generally, buildings should be designed: as a three dimensional whole, so that elements such as bay windows are designed in from the start rather than being 'bolted-on' at the end; with windows and doors set back from the external surface of the buildings, to introduce some depth and modelling to the facade; with changes in material related to the design of the building rather than a random approach. For example, changes in material may relate to a change in form such as a setback or projection".

The proposed layout plan identifies the location of the residential development and the public open space. The only parts of the layout which look the same as the layout approved in the planning permission (BN/43/16/PL) are the broad street layout and the main areas of open space; it is considered that everything else is different. The layout shows an area of public open space at the front of the site, facing onto Yapton Road; with another area of public open space within the western part of the site. There is a large attenuation basin with public open space fronting onto the basin which extends almost the full length of the southern boundary of the site, until it is curtailed at the eastern end by the siting of a large apartment building.

The submitted layout plan identifies the public open space at the front of the site with "potential for provision of play area"; however, it does not denote whether a local area of play (LAP): would be provided. It is considered that the location of the open space at the site entrance is not a good location for the provision of a LAP, in close proximity to the highway. A LAP should be provided on the public open space in the south west corner of the site, but avoiding the root protection areas (RPAs) of the trees.

The proposed layout lacks a central green space, but it mirrors - in general terms - the layout that was approved in planning permission BN/43/16/PL. There is a green space provided in the western part of the site, which reflects the location of the open space approved in the planning permission (BN/43/16/PL).

Provision was made in the S106 Agreement with BN/43/16/PL, that in lieu of on-site provision of play spaces (i.e. LEAP) that a financial contribution be made towards Murrells Field. A Deed of Variation to the Section 106 Agreement was signed on 22nd September 2017, regarding the community facilities contribution, however the commuted sum still goes to enhance facilities on and access to Murrells Field. Consequently, no provision has been made for a LEAP on the site.

The layout plan includes less public open space than that shown on the approved layout plan (Drawing No. 081). The proposed layout includes the provision of an apartment building situated on the public open space in the south east corner of the site. The loss of this public open space is considered to be unacceptable, due to the low level of open space provision proposed on the layout plan. The layout of the site would be greatly enhanced by the provision of more public open space on the site, in line with the approved layout plan (Drawing No. 081).

The layout includes an area for surface water attenuation running along the southern boundary of the site. The layout indicates that an ordinary watercourse is to be infilled. The ordinary watercourse should not be infilled for development, but should be retained as an open water feature. The reduction on the size of the SuDS area running along the entire southern boundary of the site is unacceptable due to the size of area of SuDS which would be lost to built development. In addition, the SuDS feature should be utilised as an attractive landscape feature within the site; and the proposed houses should be aligned to front onto the SuDs feature.

The apartment building in the south east corner of the site appears to book-end with the approved apartment building on the adjacent site (The Lillies site), which has reserved matters approval (BN/6/18/RES). The frontage of the apartment building on the Angels Nursery site would face onto the internal estate road and it is considered that the siting and layout of the building could provide an attractive landmark building if designed sympathetically. However, as stated above, the siting of the apartment building into what was previously shown as public open space (POS) depletes the amount of useable POS in this location and should be moved outside the area of open space, or be removed entirely from the development.

The back-to-back houses (Units 16-23 inclusive) located in the south east corner of the site are unacceptable. There are concerns about the amenity space for these units and the need to provide suitable located bin stores and cycle stores. It is considered the provision of 8 units on this plot appears cramped and over-intensive development; and 4 terraced houses on this plot, to mirror the terraced houses on Units 37-40 inclusive would be appropriate.

The layout of the gardens located to the rear of Units 43-46 and to the rear of Units 33-36 and Units 37 - 40 needs to be revised to ensure that the rear gardens are accessible in a safe and secure manner.

All of the trees on the site that are protected by a Tree Preservation Order, with the exception of one pine tree at the entrance to the site, have been incorporated into open space or landscape buffer zones on the layout plan. The loss of T75 Pine (protected by a TPO) at the main site entrance is unfortunate. The Pine is a highly visible (potential landmark) tree with long-term potential and could be accommodated with a minor adjustment to the layout. Consideration should be given to moving the access due west. Careful consideration should be given to any development beneath existing canopies of established trees and the potential for further tree growth. There would need to be a compelling argument in favour of any Root Protection Area (RPA) incursion as this site clearly lends itself to a layout that avoids any direct interference with established trees of current and future landscape value; especially as this site has relatively few established trees of moderate to high quality.

The intrusion into the RPA of two Oaks (T64 and T65), both of which are protected by a TPO is unsatisfactory and avoidable. These trees need to be given plenty of room to develop into late-maturity without coming under pressure to prune or remove. The provision of play areas in and about the crown spread of these trees is not supported from a safety perspective and they would curtail the trees growth. The play areas need to be provided outside the RPAs of the trees in the public open spaces. The group of trees (T85-T87) including Poplar (protected by a TPO) are a management concern as they will be so close to the houses. There will need to be careful analysis of soil type when considering appropriate foundation type/depth for built structures within potential distance of influence as well as provision of no-dig construction within RPA's. To overcome any tree loss, the layout should be amended by extending the area of open space to the west of the tree-line and to remove the driveways of Units 93-95 inclusive from the RPAs.

The rows of car parking spaces serving Units 43-46, Units 51-53 and Units 33-40 have been enhanced by the introduction of tree planting to break-up the visual impact of the parking spaces; and improve the

visual appearance of the parking spaces; which is supported.

As the layout includes less public open space than that shown on the approved layout plan (Drawing No. 081), this is unacceptable, due to the low level of open space provision proposed on the layout plan, the development is contrary to Policy D DM1(1) of the Local Plan

ACCESS AND MOVEMENT

Policy GA2 of the Barnham and Eastergate NP says: "support will be given to proposals that improve and extend the existing footpath and cycle path network, allowing greater access to new housing, the village centres, green spaces and the open countryside. The loss of existing footpaths and cycle paths will be resisted".

The site benefits from planning permission (BN/43/16/PL) including the means of access from Barnham Road, subject to detailed design. Condition 19 imposed on the permission says the development shall not commence until the access and associated off-site highway works have been constructed in accordance with plans and details to be submitted and approved by the LPA. Condition 20 requires that the development shall not be occupied until the internal roads and associated infrastructure has been constructed in accordance with plans and details to be submitted and approved by the LPA. This shall include visibility splays, pedestrian and cycle access considerations.

The apartment building in the south east corner of the site needs to be accompanied by a secure cycle store.

Details of the cycle path / footway linking the Angels Nursery site to the approved residential development on the Lillies site in the south east corner of the site; and linking with Murrells Field in the south west corner of the site are missing from the proposed layout plan. The lack of footway and cycleway connectivity from the site to Murrells Field and to the Lillies site is unacceptable.

As the layout lacks footway and cycleway connectivity to the surrounding area it is contrary to Policies D DM1(10), T SP1 and T DM1 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP.

DENSITY, SCALE AND MASSING

Policy D DM1 (13) of the Local Plan requires: "the density of new housing will make efficient use of land while providing a mix of dwelling types and maintaining character and local distinctiveness. Higher densities will be more appropriate in the most accessible locations. Proposals should take into account the density of the site and its surroundings. The density of large sites should be varied to guard against uniformity".

All of the higher density developments are focussed in apartments, and terraced houses (town houses) and back to back houses situated in the south eastern corner of the site in Units 16-40 inclusive; with the lower densities comprising detached houses focussed towards the northern and western parts of the site.

It is considered that the proposed layout of the site is unacceptable as it needs to ensure that there is a more equal distribution of densities across the site, so as to ensure that there is a balanced development across the whole site. The site appears to have insufficient amenity space and visitor parking spaces. The proposed layout is contrary to Policy D DM1 of the Local Plan due to the disproportionate concentration of higher density development in the south eastern corner of the site.

RESIDENTIAL AMENITY

Policy D DM1(3) of the Local Plan says that developments should: "have minimal impact to users and occupiers of nearby property and land. For example, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance.

Policy H5 of the Barnham and Eastergate NP says: "proposals for new housing should include good quality outdoor amenity space - either private gardens or a shared amenity area".

Policy H6 of the Barnham and Eastergate NP says: "the design of new housing should give full consideration to bin stores, recycling facilities and cycle stores".

The proposed layout of the residential development would ensure that the houses and apartments are located broadly in the areas identified for residential development on the approved layout plan (BN/43/16/PL); apart from the large apartment building which is located in the south east corner of the site. The siting of the houses and apartments would ensure that there would be no materially adverse overlooking or overbearing impacts on existing houses along Yapton Road, or on the houses that are approved but construction has not started on the Lillies site to the east.

Although there are no adopted standards on rear garden sizes in the Arun Local Plan, all of the rear gardens of the houses on the site appear to measure at least 10m in length, to ensure adequate amenity space is provided. The apartment building in the south east corner of the site incorporates the provision of private amenity space.

Consequently the development complies with Policy D DM1(3) of the Local Plan in terms of the provision of sufficient internal and external space and the impact upon neighbouring residential amenity.

AFFORDABLE HOUSING

The affordable dwelling mix in Policy AH SP2 of the Local Plan is:

- 1 bedroom: 35 - 40%
- 2 bedroom: 35 - 40 %
- 3 bedroom: 15 - 20%
- 4+ bedroom: 5 -10%

The Section 106 Agreement which accompanied the planning permission BN/43/16/PL sets out that 28 dwellings would be affordable with:

- 14 (50%) being Affordable Rented Dwellings (14 x 2 bed houses); and
- 14 (50%) being Intermediate Affordable Housing (8 x 2 bed houses, 2 x 1 bed flats, and 4 x Studio Flats).

In accordance with Policy AH SP2 of the Arun Local Plan, the Council aims to ensure that 30% affordable housing is achieved on all new residential developments in the district where more than 11 units are proposed such as on this site.

To date, Redrow have had feedback from two affordable housing providers (Worthing Homes and Aster Group). Both Registered Providers have confirmed they would not be willing to take 6 flats that are 1 bed or smaller as Intermediate (shared ownership) housing and would not make an offer. This makes the delivery of the site (and the affordable housing) challenging. The preference is for the studio flats to be replaced by larger dwellings.

There is high demand for affordable housing throughout the Arun District for both rent and low cost home ownership. As at August 2019 there were 792 households in housing need on the Council's housing register.

The Affordable Housing policy requires a tenure split of 75% rented and 25% intermediate housing. However, the existing planning permission (BN/43/16/PL) contains a 50/50 tenure split between shared ownership and rented and this split is considered to be acceptable in principle.

The following mix is proposed: 8 x 1 bed houses; 11 x 2 bed houses; and 9 x 2 bed flats; with 50% shared ownership and 50% affordable rented.

Policy AH SP2 says: "affordable housing must be visually indistinguishable from market housing with large groupings of single tenure dwellings or property types avoided. Affordable housing units shall be permitted in small clusters throughout development schemes." The proposed development needs to comply with Policy AH SP2 of the Local Plan in terms of clustering.

The layout includes large groupings of affordable housing clustered in the apartment building and the back-to-back houses (Units 16-23) in the south eastern part of the site; and the terraced and semi-detached houses (Units 43-46 and 51-53) in the centre of the site. The affordable units need to be broken-up into smaller clusters pepper-potted through the development, rather than concentrated as they are on the layout plan.

HOUSING MIX

Policy HDM1 provides for a mix of housing to meet local needs and requires that all housing development should provide a mix of dwelling types and sizes to address the nature of local housing needs and market demand. It is important to highlight that the policy does not prescribe a specific housing mix that must be met by individual applications, with the policy stating that each must be considered on its own merits. The supporting text to the policy (paragraph 12.2.4) continues to acknowledge that the final mix will be the negotiated on a site-by-site basis, having regard to the most up-to-date strategic housing market assessment (SHMA).

The 2012 SHMA was the subject of an update in 2016 in which paragraph 6.3 stated that the evidence highlighted a direction towards the provision of 2 and 3 bed units for market units and smaller affordable units. The GL Hearn 2016 update acknowledges at paragraph 6.10 that the analysis clearly shows the different profiles in the different broad tenures with affordable (rented) need being more heavily skewed towards smaller dwellings and market housing predominantly homes with three or more dwellings. Table 29 identifies a suggested broad mix housing by size and tenure for the District.

The mix in BN/43/16/PL was not SHMA compliant but provided a better housing mix than that submitted in the proposed layout in the current application. It would be inappropriate to approve any scheme that has a housing mix which would be worse than the previously approved housing mix in planning permission BN/43/16/PL.

The layout comprises detached, semi-detached and terraced houses (town houses) and 1 apartment building which provide for variety not only in housing size but type. The overall market and affordable mix provides for a range of dwelling sizes from 1, 2, 3 and 4 bed flats and houses. The development delivers over half of the overall scheme as 2 and 3 bed dwellings. This is consistent with the objectives of the SHMA in providing a focus on family housing across a range of housing sizes and types whilst also providing a proportion of smaller 1 bed units overall. The proposal includes a large number of 4 bed units compared to the recommended proportion of 10-15% in the SHMA update. The number of 4 bed units would need to be reduced to comply with the SHMA update.

The approved housing mix and the proposed housing mix do not accord with Policy H DM1 of the Local Plan or the SHMA.

BARNHAM CONSERVATION AREA AND LISTED BUILDINGS

In considering whether to grant planning permission for development that affects a listed building or its setting, the Council shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The Conservation

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Officer considers residential development would not harm the significance of the heritage assets due to their location and there is plenty of development and/or trees and vegetation which will mean that there is no inter-visibility between them.

The layout submitted under the variation to Condition 2, the housing mix the lack of footway and cycleway connections and the lack of open space and impact on trees provision are unacceptable and contrary to Policies D DM1, T SP1, T DM1 and ENV DM4 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP.

ARUN DESIGN GUIDE

The design guide is a draft with consultation having been undertaken in early 2020 with adopted expected later in the year. The guide promotes good design in new development through setting out key design objectives. It encourages creating a network of streets (F.01), appropriate open spaces (H.03), appropriate external space standards (H.04) and appropriate building design (J.01). The proposal fails to accord with the provisions of the guide.

VARIATION OF CONDITION 8

Part of the current application is to vary Condition 8 imposed on BN/43/16/PL, which relates to arrangements for the future access and maintenance of any watercourse or culvert crossing or abutting the site.

Condition 8 currently says:

"The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority.

No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion."

It is claimed that it would not be necessary to require agreement on the layout if the layout is to be agreed through Condition 2.

It is proposed Condition 8 imposed on BN/43/16/PL is varied to read:

"No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site."

However, the alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design.

VARIATION OF CONDITION 18

Part of the current Section 73 application is to vary Condition 18 - a pre-commencement condition that was imposed on BN/43/16/PL, which relates to access and associated off-site highway works.

Condition 18 currently says:

"The development, hereby permitted, shall not be commenced until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation

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with the CHA.

Reason: To ensure fit for purpose roads constructed to appropriate design and safety standards."

The proposal is to amend the condition from a pre-commencement requirement to a pre-occupation requirement and that it be varied to read:

"No dwelling hereby permitted shall not be occupied until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the Local Planning Authority after consultation with the Local Highway Authority."

The pre-commencement wording of Condition 18 would result in a newly constructed road into the site being used by earth moving vehicles, which could damage the new road surface. The proposed main access into the site would be utilised initially by a sales area, which would be located on the eastern part of the application site.

It is understood that a temporary construction access would be created to the western end of the site fronting onto Yapton Road, which would be detailed in a Construction Management Plan, which would be required to be submitted to the LPA under Condition 27, which was imposed on planning permission (BN/43/16/PL).

The variation to the wording of Condition 18 would enable the initial construction phase of the development to be completed, following which the off-site highway works would be implemented.

The approved off-site highway works comprise a right hand turning lane and pedestrian refuge on Yapton Road at the vehicular access into the site. The off-site highway works on Yapton Road are required to service the approved residential development at the Angels Nursery site. The off-site highway works would not be required to make the construction work acceptable. It is considered that it would be counter-productive to construct the right hand turning lane and the pedestrian refuge on Yapton Road prior to the initial on-site construction works, including earth moving operations to level the ground on the site; as the contractor vehicles could damage the off-site highway works, which would then need to be re-instated following the completion of the initial onsite construction works (i.e. groundworks).

The on-site highway works include the provision of visibility splays at the site entrance commensurate with a 20mph design speed.

It is considered that the site layout would not be affected by this proposed variation to the wording of Condition 18.

The proposed variation to the existing wording in Condition 18, enabling the site access and associated off-site highway works to be constructed prior to occupation rather than prior to commencement, is considered to be acceptable as it would ensure that the development provides safe access on to the highway network.

The variation to the wording of Condition 18 has been approved in a separate Section 73 application (BN/93/19/PL) which was submitted by Redrow. Permission for the variation of Condition 18 under the Section 73 application (BN/93/19/PL) from a pre-commencement to a pre-occupation requirement had not been granted at the time that the current application (BN/131/19/PL) was submitted to the Local Planning Authority for determination. Consequently there is no need to repeat the approved variation to the wording of Condition 18 in this application as it has already been resolved under BN/93/19/PL.

SUMMARY

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The layout, the lack of footway and cycleway connections to the surrounding area, the housing mix and the reduction in on-site open space provision set out in the variation to Condition 2 are considered to be unacceptable for the reasons set out above. Affordable housing should be pepper-potted around the site rather than being concentrated in the south eastern part of the site and the centre of the site.

The alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design.

The proposed variation to the wording of Condition 18 is not considered to be necessary as the proposed wording has already been approved in BN/93/19/PL. Permission for the variation of Condition 18 under BN/93/19/PL from a pre-commencement to a pre-occupation requirement had not been granted at the time that the current application was submitted. Consequently there is no need to repeat the approved variation to the wording of Condition 18 in this application as it has already been determined and resolved under BN/93/19/PL. However this is not a reason for refusal.

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 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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 the following 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).

The proposal would have a neutral impact on the protected characteristics.

SECTION 106 DETAILS

A Unilateral Undertaking under Section 106 of the Town and Country Planning Act was prepared and signed that accompanied BN/43/16/PL and it covers the requirements of WSCC highways, Traffic Regulation Order (TRO), contributions to education, libraries and fire and rescue, and maintenance and management of the public open spaces.

The implication of varying Conditions 2, 8 and 18, on BN/43/16/PL, would be to require a Deed of Variation to enable this Section 73 application to be listed in the Unilateral Undertaking. As the application is recommended for refusal there is no need for a Deed of Variation to be issued.

RECOMMENDATION

REFUSE

- 1 Condition 2 should not be varied for the following reason:

The layout, the lack of footway and cycleway connectivity to the surrounding area, the lack of visitor parking spaces, the non-SHMA compliant housing mix, the clustering of the affordable housing, the disproportionate concentration of higher density development in the south eastern corner of the site, the lack of open space and the loss of a protected tree and development within the root protection area of protected trees result in a development that has an unacceptable layout, housing mix, connectivity and design causing harm to the future occupiers of the development and the character of the area contrary to Policies D DM1, AH SP2, T SP1, T DM1 and ENV DM4 of the Local Plan and Policy GA2 of the Barnham and Eastergate NP.

- 2 Condition 8 should not be varied for the following reason:

The proposed alterations to Condition 8 would not be acceptable, since the pond size and location could change as a result of the applicant having to satisfy Condition 3 (surface water drainage design). Consequently, the layout could be affected, depending on the outcome of the detailed design.

- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.