

Applicant response to POS consultation

LPA REF: BN/84/20/PL

SITE: Land at Angels Nursery, Yapton Road, Barnham

PROPOSAL: Application for variation of Condition 2 (approved plans) imposed on planning permission BN/93/19/PL for the development of 95 dwellings and consequential changes to other conditions following commencement of development.

DATE: 6th October 2020

PUBLIC OPEN SPACE

The ADC Leisure and Landscape Officer has provided a consultation response to the current application dated 27th August 2020 objecting to the proposals on the following grounds:

"Recommendation relating to this application re approved plans under BN/84/20/PL Greenspace would still uphold a Landscape objection to the quantity of POS being offered, albeit layout positioning not having changed significantly from the original 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 out SPD requirements and therefore would have to be recommended as a Greenspace objection."

The Applicant considers the objection to be unreasonable and considers that the proposals are entirely acceptable for the following reasons:-

POS Requirements

1. The Public Open Space (POS) requirement for the site using the ADC Open Space, Playing Pitches, Indoor and Built Sport Facilities SPD (January 2020) is **0.67ha**.

The Extant planning permission (BN/43/16/PL)

2. The 2017 planning permission provided for **0.53ha** (5,269 sqm).
3. At the time that the permission was granted it was known that the proposals would not meet the LPA's standard. The Officer Report records that:-

"The SPG allows for off-site provision to be made where appropriate - it is deemed that given the site's location

adjacent to the village hall playing pitches, MUGA and play equipment it is an appropriate location.

.....

"..... the development would be slightly deficient, providing 5269sqm (requirement would be 5472sqm). This is resolved by the applicant agreeing to the SPG alternative that allows developments to pay a £1000 per unit £95,000 contribution which will provide improvements to the adjoining play pitches and play areas at the village hall."

4. The principle of an off-site contribution has therefore already been accepted on this site.
5. This permission (as later varied) has been implemented and this legitimate fallback position represents an important material consideration for the current application.

The 2020 s.73 Planning Permission (BN/93/16/PL)

6. Officers must be mindful that the 2017 planning permission was the subject of a s.73 application that was approved on 26th February 2020.
7. This created a new planning permission and in granting that permission the LPA has reaffirmed that the principle of any under provision of POS being addressed through s.106 financial contributions was acceptable.
8. The decision was very recent and importantly, officers will note that the decision post dated the adoption of the Public Open Space, Playing Pitches and Built Facilities January 2020 SPD.
9. The planning policy context for the current s.73 application is identical and there has been no change in circumstances that would suggest that a different approach is warranted.

The Lillies Development (immediately to the east)

10. The approach taken on the adjacent Lillies site is also a material consideration.
11. The Lillies site only provided 50% of the required POS on-site and was allowed to make a financial contribution of £1,000 per home to offset the difference so that additional play equipment could be provided off-site.

The Current proposals

12. The current application provides **0.53ha** (5,303 sqm). This would be a similar arrangement to the extant planning permission, but with an increase in POS of 34sqm.
13. The application site will provide 79% of the SPD requirement which exceeds what was achieved on both the extant scheme and adjacent Lillies site.

14. Unlike the extant permission the current proposal also provides the potential for a play area on-site.
15. The Applicant remains committed to providing financial contributions towards meeting any necessary off site POS improvements, as before.

The site context

16. The decision-taker needs to consider the availability of POS in the vicinity of the site.
17. The site sits between a new residential development to the east (Lillies site) which will provide an area of POS and to the west (Murrells Field) a large area of public playing fields and a play area – both of which will be readily accessible on foot and by bicycle through direct links, while still providing POS on the application site itself.
18. As noted above the Officer Report previously accepted that the site was in an appropriate location for there to be an off-site contribution.

The Applicant's response

19. The current application only seeks to amend the design and layout of the development. The principles relating to POS are near identical and there is no reason why the LPA should be revisiting this.
20. The proposals include a quantum of POS which is no less than the extant permission. In fact, it includes more POS.
21. The LPA has previously confirmed that the location of the site adjacent to existing POS means that off site contributions are appropriate. Nothing has changed in this regard
22. A clear precedent has been repeatedly set for this site in that any shortfall in POS can be met through off site contributions.
23. The use of the off site contribution at Murrells Field will provide more benefit to the wider community and the Applicant remains committed to making that payment.
24. The LPA accepted the same approach on the Lillies with a lesser level of on-site provision.
25. The extant permission could be built out tomorrow and provide less POS and make a financial contribution – this is a very important material consideration.
26. The LPA reaffirmed that this was an acceptable arrangement as recently as February 2020 when it approved the last s.73 planning permission.
27. The provision of POS on site at the LPA's full standard would result in the loss of circa 10 plots (some of which will be affordable units) which would represent a major departure from what the Applicant could build out under the extant permission. They are simply not willing to contemplate such a change.

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28. It would also alter the description of the consented scheme which is not permissible under s.73.
29. Our calculations against the current SPD in fact show that the off-site contribution should be less than what is being offered (less than half) and so it surprises me that the LPA would want to revisit this.
30. This is an application which must be determined in the NPPF paragraph 11d tilted balance. The benefits are substantial and there would be no harm because any such harm would be mitigated through the financial contributions. It does not therefore come anywhere close to being a refusal on the basis that the adverse effects would significantly and demonstrably outweigh the benefits.
31. The suggestion that we might need to lose 10 plots also needs to be considered in the context of the fallback position and the fact that the LPA's housing land supply position is dire.

For all the reasons set out above we consider the approach to POS provision on site and off site to be entirely appropriate and consistent with previous (including very recent) decisions of the LPA.