

**Recommendation Report for Planning Permission**

**REF NO:** FG/56/17/PL

**LOCATION:** Sales Office  
Kilham Way  
Ferring

**PROPOSAL:** Variation of condition 5 imposed under FG/104/14/PL relating to change of wording from 'prior to occupation' to 'prior to the occupation of the dwellinghouses'.

**SITE AND SURROUNDINGS**

|                            |                                            |
|----------------------------|--------------------------------------------|
| DESCRIPTION OF APPLICATION | As above                                   |
| SITE AREA                  | N/a                                        |
| TOPOGRAPHY                 | Predominantly flat.                        |
| TREES                      | None affected by the proposed development. |
| BOUNDARY TREATMENT         | N/a                                        |
| SITE CHARACTERISTICS       | N/a                                        |
| CHARACTER OF LOCALITY      | N/a                                        |

**RELEVANT SITE HISTORY**

|              |                                                                                                                                                                                                                   |                                  |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| FG/104/14/PL | Erection of 40 No. dwellings together with access from the A259, associated car parking & landscaping & amenity space.<br>Resubmission of FG/44/14/PL. This application is a departure from the development plan. | App Cond with S106<br>18-11-2014 |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|

FG/104/14/PL - Original planning permission subject of this application

**REPRESENTATIONS**

**Representations received:**

None

**Comments on Representations received:**

N/a

**CONSULTATIONS**

Environmental Health

**Consultations responses received:**

ADC Environmental Health - No objection to the variation of condition.

**Comments on Consultation responses:**

Comments noted

## POLICY CONTEXT

Designation applicable to site:  
ADOPTED LOC PLN  
CLASS A ROAD

## DEVELOPMENT PLAN POLICIES

|                                                                       |                      |                                                           |
|-----------------------------------------------------------------------|----------------------|-----------------------------------------------------------|
| <a href="#">Arun District Local Plan 2003:</a>                        | <a href="#">GEN2</a> | Built-up Area Boundary                                    |
| <a href="#">Publication Version of the Local Plan (October 2014):</a> |                      | QE DM4 Contaminated Land<br>SD SP2 Built-Up Area Boundary |

## PLANNING POLICY GUIDANCE

|      |                                     |
|------|-------------------------------------|
| NPPF | National Planning Policy Framework  |
| NPPG | National Planning Practice Guidance |

## POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

No policies in the Ferring Neighbourhood Plan are considered relevant to this application.

#### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

##### **PLANNING**

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 is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

#### **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**

The proposed variation of condition regarding contaminated land has not met with any objections from ADC's Environmental Health team.

The variation of condition application separates the completion of remediation works to the houses and open space areas because remediation works on the open space area cannot be finished until the site offices are removed from the open space area which will occur following the occupation of the first tranche of dwellinghouses on the site prior to the open space being brought into use.

The matter is a technical issue and would not significantly impact on the residential amenities of the occupiers of the dwellinghouses and is therefore recommended for approval subject to the attached conditions;

## **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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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.

## **RECOMMENDATION**

### **APPROVE CONDITIONALLY**

- 1 Prior to the public open space being brought into use, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation to the area of open space shall be submitted to and approved, in writing, by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed in an appropriate standard in accordance with Arun District Local Plan policy GEN7.

- 2 Prior to occupation of the dwellinghouses, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation excluding the area of public open space shall be submitted to and approved, in writing, by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To protect the environment and prevent harm to human health by ensuring that the remediated site has been reclaimed in an appropriate standard in accordance with Arun District Local Plan policy GEN7.

- 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 4 INFORMATIVE: For the avoidance of doubt Conditions 1 and 2 of this application FG/56/17/PL replace condition 5 of FG/104/14/PL. Condition 5 of FG/104/14/PL no longer forms a part of the planning permission as a result.