Recommendation Report for Planning Permission

REF NO: **FP/100/13/**

LOCATION: Site 6
Felpham

PROPOSAL: Application for Variation of Condition 40 imposed under planning consent FP/92/04 to allow for the construction of the relief road viaduct during the twenty four hour period between 1st October 2014 until 28th February 2015.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Variation of Condition 40 attached to planning permission FP/92/04. This would allow for 24 hour construction hours between 1 October 2014 and 28 February 2015.

This variation is sought because of a change in the construction programme as materials and equipment are arriving via Liverpool on boat rather than Portsmouth and there are consequently longer travel distances and shorter daylight hours during the time when delivery can be taken at Liverpool.

The delivery of these materials has to take place at night to satisfy the Police escort requirements.

Condition 40 reads;

'No work for the carrying out of the development hereby approved shall be undertaken on the site on bank or public holidays or at any other time except between the hours of 7.30am and 6pm Mondays -Fridays and 08.30am - 1.30pm on Saturdays.'

SITE AREA

n/a

BOUNDARY TREATMENT

SITE CHARACTERISTICS

CHARACTER OF LOCALITY

RELEVANT SITE HISTORY

FP/92/04/	Outline Application for residential development and associated uses forming part of policy site 6.Construction of the Bognor Regis Northern Relief Road from A259 at Felpham to A29 (This application is accompanied by an environmental statement and affects a public right of way)	Called In by DCLG/SD 30-11-2004 **Appeal: Allowed+Conditions 22 11 2006**
FP/220/07/	Approval of reserved matters following outline application FP/92/04 - The eastern section of the Bognor Regis Northern Relief Road between the A259 at Felpham to the A29 & associated engineering works (This application affects a public right of way & also falls within the parishes of Yapton, Middleton, Bognor Regis, Aldingbourne & Bersted)	ApproveConditionally 15-01-2009

REPRESENTATIONS

Representations received:

Felpham Parish Council

Felpham Parish Council - No objection.

Comments on Representations received:

Noted

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Consultations responses received:

WSCC (Strategic Planning) - The application relates to noise and therefore we would not wish to raise an objection.

Environmental Health - No objection in principle. It is accepted that night-time delivery is unavoidable as is the construction of the viaduct over the railway line. View that noise levels will be no greater than operational traffic. It is suggested that night time construction is limited to the delivery of the beams and the construction of the railway viaduct only.

A number of residents in the vicinity of Sack Barn will potentially be significantly affected and further noise assessments should be be undertaken once these works have commenced.

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN7	The Form of New Development
	GEN32	Noise Pollution

PLANNING POLICY GUIDANCE

NPPF National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to:

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

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 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 nor would it have an adverse impact upon the established character of the surrounding area. There may be some adverse impacts on the residential amenities of the adjoining properties but these impacts are unavoidable and can be mitigated.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The construction of the Felpham section of the Bognor Regis Relief Road has been under construction throughout 2013.

To complete to road, a large number of beams (169) are required for the construction of the viaduct over the railway line and rife. The Police have stipulated that these beams shall only arrive on site at night time as they require an escorted police convoy due to their size. They can therefore only be delivered at a rate of approximately 7 or 8 a night.

The applicants have submitted some technical work in respect of likely noise disturbance to accompany the application. This acknowledges that there is likely to be some impacts for properties near Sack Barn and Hoe Farm as a result of the beam and viaduct construction. The applicants have stated that a code of construction practice will be agreed with the Council in order to minimise noise impact.

It is considered that there is a necessity for these works to be carried out at night time and that this is unavoidable if the road is going to be constructed. It is therefore proposed to agree to the temporary variation of the condition with the condition as worded at present being relied upon up to 30 September 2014 and from 1 March 2015. For the period in between, the condition will read;

'Prior to the commencement of 24 hour working agreement in the period 1 October 2014 - 28 February 2015, the applicants shall clearly set out in a statement the construction programme for the hours 18.00 - 07.30 the works that will be carried in respect of beam and viaduct construction out only and submit a Code of Construction Practice for approval by the Local Planning Authority. Once approved, these shall be fully implemented and maintained for the duration of the approved works.'

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 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 neutral 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).

RECOMMENDATION

APPROVE CONDITIONALLY

1 Condition 40:

Prior to the commencement of 24 hour working agreement in the period 1 October 2014 -

28 February 2015, the applicants shall clearly set out in a statement the construction programme for the hours 18.00 - 07.30 the works that will be carried in respect of beam and viaduct construction out only and submit a Code of Construction Practice for approval by the Local Planning Authority. Once approved, these shall be fully implemented and maintained for the duration of the approved works.

Reason: In the interests of mitigating the adverse noise impacts and protecting residential amenity.

2 INFORMATIVE:

All other conditions attached to planning permission FP/92/04 remain applicable.

3 INFORMATIVE:

Condition 40 is approved to be varied for a specific period of time. It will remain unchanged up until 30 September 2014 and will revert to the wording contained within FP/92/04 after 1 March 2015.