

Recommendation Report for Removal of a Planning Obligation

REF NO: F/2/18/PO

LOCATION: Land South of Burndell Road
Yapton

PROPOSAL: Application for the modification of planning obligation F/7/15/OUT dated 1st March 2016 relating to the deletion of clause 2:11 "6 affordable rented homes" & "7 intermediate homes" & replace with "0 affordable rented homes" & "13 intermediate homes"

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for the modification of the s106 agreement signed under reference F/7/15/OUT. This modification seeks for all 13 affordable units to be provided as intermediate homes instead of 6 affordable rented homes and 7 intermediate homes as specified under Clause 2.11 of the original s106 agreement.
SITE AREA	The site has an area of approximately 2.4 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	The development will have a gross density of approximately 19 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The northern boundary of the site adjoins the residential properties which front Burndell Road, the boundary consists of domestic fencing of varying heights. Most of the boundaries are supplemented by hedging or trees. There is wire fencing, hedging and five bar gate to highway boundary in Burndell Road. The southern, eastern and western boundaries are enclosed by mature hedgerows, 3-4 metres in height with intermittent trees of varying maturity.
SITE CHARACTERISTICS	The site is located to the south of nine residential properties fronting Burndell Road with a narrow road frontage. The site largely comprises open grassland, and would appear to have been used as grazing land. Access to the site from Burndell Road is provided between the properties 'Kyrie' and 1 Northwood Cottages.
CHARACTER OF LOCALITY	Residential properties are situated to the north of the application site with agricultural land situated to the south and east of the application site.

RELEVANT SITE HISTORY

Outline consent for the construction of 45 residential dwellings was granted under reference F/7/15/OUT.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Ford Parish Council

Ford Parish Council

OBJECTION

- The developers attended several neighbourhood development group meetings and open days and exhibited concept plans showing houses and bungalows with additional open space.
- We made it clear that one property was needed for a very disabled resident of Ford. The Neighbourhood Development Group agreed to support the plan and we were assured that an adapted property from the affordable housing allocation would be made available. This has been ignored by the developer and Arun District Council planning department.
- The agreement to build one property for a very disabled resident of Ford must be honoured.
- The Ford Parish Council objects to the changes in the s.106 agreement to make all properties intermediate housing and wishes the affordable housing provision to remain unchanged.
- Policy H2 states that new housing development must deliver a range of house types and tenures including bungalows, sheltered accommodation, self build and shared equity properties. Policy H2 has been ignored as there is not a range of tenures.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and will be considered in the conclusion to this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Housing Strategy and Enabling Manager:

The applicants propose to provide the 13 affordable homes as intermediate housing (shared ownership / shared equity) based on a previous disposal agreement secured by the original developer. The 13 units are due to be acquired by an affordable housing provider approved by the council. The council will require the provider to ensure that households with a local connection to the Yapton/Ford area are prioritised as part of the sales marketing of the affordable homes.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Outside built up area boundary

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

DEV17 Affordable Housing

Publication Version of the Local Plan (October 2014):

AH SP2 Affordable Housing

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

XXX6	Interim Affordable Housing Policy
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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 has taking place. 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. The examination into the proposed Plan modifications took place in September 2017.

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.

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).

Ford Neighbourhood Plan has reached reg. 18 stage but the examination was suspended on the 18th September 2017 until the Inspectors report on the Arun District Local Plan has been issued. The site lies outside of the Yapton Neighbourhood Plan area.

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 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 site benefits from outline permission under reference F/7/15/OUT for the erection of 45 dwellings. The S106 agreement signed under reference F/7/15/OUT secured the 30% provision of affordable units (13 dwellings) on site with a tenure mix of 6 affordable rented homes and 7 intermediate homes proposed under clause 2.11 of the agreement.

This application proposes an amendment to the tenure mix from that originally agreed (as identified above) to 13 intermediate units. This amendment has been agreed by the applicants, the intended affordable housing partner (Landspeed), the landowner and the Council's Housing Strategy and Enabling Manager.

Policy DEV17 of the Arun District Local Plan (2003) identifies that affordable housing provision will be dependant upon identified local housing need, character of the area, suitability of the site and market conditions. Therefore, the policy does not specify a housing or tenure mix for the provision of affordable housing.

Policy AH SP2 of the emerging Arun District Local Plan identifies that the Council will require a minimum provision of 30% of the total number of units proposed on site to be provided as affordable units. It is identified within the policy that the Council will negotiate affordable housing tenure mix on development sites from an initial position of 75% rent and 25% intermediate housing. However, this is an initial position with the policy identifying that the tenure mix is negotiable.

Policy H2 of the Ford Neighbourhood Plan identifies that affordable housing provision should include rental and shared equity housing. The policy also identified that proposal which provide a maximum of 30% affordable housing will be given full support as this would have significant benefits for the local community. The Ford Neighbourhood Plan has reached reg. 18 stage but has been suspended until the Inspectors report on the emerging Arun District Local Plan has been issued. Therefore, at this time policy H2 can only be attributed limited weight in the consideration of this variation of the s106 agreement.

Affordable Housing providers are usually reluctant to take on small numbers of affordable rental properties as the maintenance and management of the properties is prohibitively difficult. The previous developer Mildren Homes had sought bids from the council's preferred registered partners based on a scheme mix of 6 x Affordable Rent and 7 x Intermediate Housing. The Council were informed that bids were subsequently received from only two of the Council's seven registered partners and that neither of these bids met the assumed income in the appraisal for the 13 affordable units. Mildren Homes subsequently entered into negotiations with the Council's Housing Strategy and Enabling Manager asking if they could revise the original scheme mix to provide the 13 affordable units as Intermediate Housing (shared ownership) which was agreed. A price was agreed with a non-registered partner, approved by the council, for the acquisition of the 13 affordable units as shared ownership housing.

Therefore, it is considered that the provision of the affordable housing as 100% intermediate housing is acceptable. The alteration of the affordable housing tenure has been considered by the Council's Housing Strategy and Enabling Manager who has raised no objection. The affordable housing provider has also agreed to market the shared ownership housing for a period 3-months to local persons who have a live/work connection to the Ford/Yapton area.

Ford Parish Council in their objection have also identified that one of the affordable units was needed for a very disabled resident of Ford and that they had been assured that an adapted property from the affordable housing allocation would be made available. However, the outline approval for the development and associated S106 agreement does not make any reference to such a scenario or agreement. There is no mechanism in place which requires this property to be provided or secured for a specific resident of Ford.

It is considered that the proposed affordable housing tenure mix would accord with policies DEV17 of the Arun District Local Plan and AH SP2 of the emerging Arun District Local Plan. Therefore, it is recommended that the proposed modification of Clause 2.11 of the S106 under reference F/7/15/OUT is approved under delegated authority.

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