Recommendation Report for Planning Permission

REF NO: LU/219/19/PL

LOCATION: Courtwick Lane
Littlehampton

PROPOSAL: Application for the variation of condition 35 on LU/355/10 in relation to Barn Owl tower.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This is an application to vary the wording of condition 35, which was imposed on outline planning permission LU/355/10, which required the construction of a permanent Barn Owl tower at Courtwick (now known as Kingley Gate).
SITE AREA	The overall development at Kingley Gate comprises 33.6 hectares of land.
TOPOGRAPHY	Predominantly flat. However, the land falls away significantly to the western boundary of the site (adjacent to the River Arun) by approximately 4 metres.
TREES	There are a considerable number of new trees that have been planted by the developers (Barratts and Bellway) at Kingley Gate.
BOUNDARY TREATMENT	The site boundaries are defined as follows: · The south eastern boundary is formed by a new industrial building occupied by the Fittleworth Group. · The northern boundary by a hedgerow, containing some trees and a notable tree group south of the farm, separating the site from Brook Barn Farm and adjacent small fields and the West Coastway railway line and Littlehampton branch line. · A belt of newly established planting on the north eastern boundary of the site that forms the boundary with an area of open space provided as part of the adjoining residential development. · Along the southern boundary, a post and rail fence and occasional clumps of scrub along the route of the A259 with residential and employment development to the south, fringed by planting belts. · An overgrown hedgerow along the southern side of Courtwick Lane. · The western edge of the site is defined by a hedgerow beyond which lies a series of fields within the floodplain that extend to the railway line south of Littlehampton railway junction.
SITE CHARACTERISTICS	The development site, known as Kingley Gate, is an urban

extension located on the north-western edge of Littlehampton. Kingley Gate is predominantly residential; it has been developed by a consortium of house builders comprising Barratt Homes and Bellway; and it is almost completed. Kingley Gate comprises of 600 dwellings, varying in style and design and ranging between 2 and 3 storeys in height; a mixed use building, together with a changing facilities building, and areas of public open space, including LAPs, a LEAP a NEAP and formally laid out sports pitches. Kingley Gate also includes 4,000 square metres of Class B1 floorspace (on approximately 1 hectare of land) in an area located adjacent to the A259 and accessed off the signalised junction on the A259, which serves the whole development. Kingley Gate is approximately 1.75km from Littlehampton town centre and 1km from the existing local centre at Wick.

CHARACTER OF LOCALITY

To the north of the application site is Brook Barn Farm, an independently farmed agricultural unit. Beyond this is the railway line, beyond which is countryside.

Immediately to the east of the site is Court Wick Park and the adjoining Court Wick Park Stables (known locally as the Coach House), both of which are Grade II listed. This group of buildings is partially enclosed by significant groups of tall mature trees. Other buildings in this location include Numbers 4/5 Courtwick Park Cottages, a pair of two storey semi-detached houses.

Further to the east, beyond Court Wick Park, is a relatively modern housing development which follows a typical medium density pattern of development accessed by a low speed road network of cul-de-sacs. To the south of this, and separated from the application site by an area of undeveloped land (a former nursery site), is the Martello Enterprise Centre, an established employment/business park.

To the west of the site is an area of farmland beyond which is the railway and then the River Arun.

The application site's southern boundary is formed by the A259. A landscaped embankment rises to the south of the A259, beyond which is the large residential area of Wick, which comprises a mix of 2 and 3 storey houses and flats arranged around a loose grid of small parking courts and open spaces. To the west of the Wick residential area is the Lineside Industrial Estate, which is accessed from the A259 via Eldon Way.

The southern edge of the town of Arundel is located 2.5km north of the application site.

RELEVANT SITE HISTORY

LU/355/10/	Outline application with some matters reserved for mixed use development comprising: up to 600 residential dwellings (including up to 30% affordable housing), up to 4,000 sqm of B1a and B1b employment floorspace, up to 235 sqm of A1/A2/A3 local facilities, structural planting and landscaping, multi functional green infrastructure including sports pitches (and associated changing facilities), informal open space, children's play areas, allotments and surface water attenuation, on-site pedestrian/cycle/bus emergency only access from Courtwick Lane and ancillary works.This application is the subject of an Environmental Impact Assessment & a departure from the Development Plan.	App Cond with S106 23-03-12
LU/408/17/PL	Variation of condition No.4 & 24 imposed under LU/355/10 relating to amended drawings & rewording condition to state "Details of the proposed bus route within the development, including footway and cycleway links, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the 550th house at Kingley Gate. The bus route, cycle and footway links shall be carried out in accordance with the approved plan prior to the occupation of the 600th residential unit at Kingley Gate".	ApproveConditionally 09-05-18

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council

No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

Ecology Advisor

CONSULTATION RESPONSES RECEIVED:

ADC ECOLOGICAL ADVISOR:
No objection.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:
Within the Built Up Area Boundary (BUAB) in the Local Plan.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
ENVDM5	ENV DM5 Development and biodiversity

Littlehampton Neighbourhood Plan 2014 Policy 2 A Spatial Plan for the Town

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.

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.

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; Ford.

The Littlehampton Neighbourhood Plan (NP) was made on 5th November 2014. Relevant Littlehampton 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 development is considered to comply with relevant Development Plan policies in that it does not have a materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties on Kingley Gate.

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 development at Kingley Gate was established when outline planning permission (LU/355/10/) was granted on 23rd March 2012 for up to 600 residential dwellings, up to 4,000 square metres of employment floor-space, up to 235 square metres of A1/A2/A3 local facilities, sports pitches and open spaces, together with on-site pedestrian links.

ENVIRONMENTAL IMPACT
The Environmental Statement submitted in support of the outline planning application for this site (LU/355/10/) is considered adequate to assess the significant effects of the development on the environment and has been taken into consideration in this report.

BIODIVERSITY
Policy ENV DM5 of the Local Plan says that "development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site".

Condition 35 which was imposed on outline planning permission LU/355/10 currently says:
"No development hereby permitted shall commence until details of the design, siting and timescales for delivery of a permanent dedicated barn owl tower have been submitted to and approved by the local planning authority. The approved tower shall be erected in accordance with these approved details".

The intention originally was to erect a permanent Barn Owl tower within one of the two dedicated ecology areas at Kingley Gate. However, as the ecology areas have now been established in the west and north-east of the site, this is not possible without damaging notable extents of wildflower grassland habitat; and potentially risking injury to reptiles using this habitat.

The proposal is to install two wooden barn owl boxes within mature trees in one of the two ecology areas at Kingley Gate, rather than constructing a permanent brick tower for the barn owls. The wooden boxes would be neither permanent, nor would they comprise a tower. The current application to vary condition 35 on outline planning permission LU/355/10 would ensure that the barn owl boxes could be installed at the site, in place of a permanent brick tower. It is considered that the provision of two Barn Owl boxes in mature trees in the ecology area along the western boundary of the site would be a suitable alternative to the provision of a permanent tower.

Consequently, the condition requires to be varied to read: "The construction and position of Barn Owl boxes shall be carried out in accordance with the Ecological Mitigation and Management Plan (ref. ECO2927.EcoManPlan.vf1, April 2019) and Drawing Numbers 2927/EMP4 Rev. A: Faunal Enhancements and 2927/EMP5: Habitat Management Areas."

It is considered that the proposed variation in the wording of Condition 35 is acceptable as it would achieve a net gain in biodiversity through the creation of a Barn Owl habitat on the site, in accordance with Policy ENV DM5 of the Local Plan.

DESIGN AND APPEARANCE
Policy D DM1 of the Local Plan says: "when considering any application for development the Council will have regard to making 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, landscaping and design features".

The visual appearance of two proposed barn owl boxes, that would be constructed of wood, would be acceptable as they would be relatively small in size and fit onto the trees along the western boundary of Kingley Gate. The installation of two wooden bird boxes would be visually more acceptable than the construction of a permanent brick tower on the boundary of the site.

It is considered that the installation of two proposed wooden barn owl boxes in the trees along the western boundary of Kingley Gate, would be visually acceptable and would comply with Policy D DM1 of the Local Plan, in terms of scale and siting of the wooden boxes.

DEED OF VARIATION
The Kingley Gate Ecological Mitigation and Management Plan, April 2019, includes the provision for the monitoring and replacement of the barn owl boxes over an 80 year period. This commitment would need to be covered in a Deed of Variation to the Section 106 Agreement.

A Deed of Variation to the Section 106 Agreement has been prepared to accompany this application (LU/219/19/PL), which includes the following wording: "The barn owl boxes will be maintained and managed for 80 years from the date of this agreement. As part of this management, the boxes will be monitored, maintained and replaced when no longer fit for purpose."

The commitment to the provision for the monitoring and replacement of the wooden barn owl boxes over an 80 year period is considered to be acceptable, as it would ensure the long term commitment to the provision of a habitat for barn owls at Kingley Gate, in accordance with Policy ENV DM5 of the Local Plan.

Summary
It is considered reasonable and necessary to vary condition 35, imposed on the outline planning permission (LU/355/10/) for Kingley Gate, to refer to the provision of wooden barn owl boxes. The proposed variation to condition 35 is acceptable and it complies with Policy D DM1 and Policy ENV DM5 of the Local Plan and the National Planning Policy Framework.

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.

SECTION 106 DETAILS

The Section 106 Agreement which accompanied the outline planning permission (LU/355/10/) was agreed to deliver various community facilities including affordable housing, public open space, sports pitches, changing facilities and a commercial building.

This current proposal includes the provision of monitoring and replacement of the barn owl boxes, covering the replacement of the wooden boxes once every ten years for an 80 year period. Consequently, a Deed of Variation is required to the Section 106 Agreement, which is dealt with as part of this application LU/219/19/PL.

RECOMMENDATION

1 And to be carried out in accordance with application no LU/355/10 as modified by LU/408/17/PL and by the undermentioned conditions and subject to compliance with the conditions specified hereunder:

2 Condition 35:

The construction and position of Barn Owl boxes shall be carried out in accordance with the Ecological Mitigation and Management Plan (ref. ECO2927.EcoManPlan.vf1, April 2019) and Drawing Numbers 2927/EMP4 Rev. A: Faunal Enhancements and 2927/EMP5: Habitat Management Areas.

Reason: To secure adequate habitat enhancement and mitigation of potential impacts of the development, in accordance with ENV DM5 of the Arun Local Plan.

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.