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**From:** Amy Myer <Amy.Myer@arun.gov.uk>

**Sent:** 22 July 2020 10:44

**To:** Planning.Responses <Planning.Responses@arun.gov.uk>

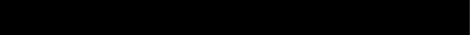
**Subject:** FW: P/116/19 OUT - Land adjacent to Sefter School House Sefter Road Bognor Regis PO21 3EE

Hi – please add below email to the case file online

Thanks

Amy

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**From:** paul collins 

**Sent:** 21 July 2020 19:12

**To:** Amy Myer <Amy.Myer@arun.gov.uk>; Daniel Vick <Daniel.Vick@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; Karl Roberts <Karl.Roberts@arun.gov.uk>



**Subject:** RE: P/116/19 OUT - Land adjacent to Sefter School House Sefter Road Bognor Regis PO21 3EE

Dear Amy

As you know in earlier e mails I refer to and acknowledge the fact that you are new to this authority and have taken this case over from a predecessor which has no doubt made things more difficult for you than might otherwise have been the case. However you are now the case officer and the accuracy and content of your report is important if members are to be able to make a lawful decision and/or one that can be defended at appeal and your line managers responsible for signing off such reports have similar responsibilities.

My previous e mail stands but I thought the following list of matters that I have noted to date may help you and you managers to do the right thing.

- The costs decision against ADC which relates to the appeal decision to which you refer in the officers report ( attached). Surely Members need to be made aware of this if they are to avoid making the same mistake as officers if minded to refuse the application?
- *The attached appeal decision which strongly supports a refusal of this scheme for all the reasons that I will be citing in my written submission to members in due course*
- The Natural England consultation response dated 14/2/20 which is not correctly reported in that this advises that ADC consider undertaking an appropriate assessment to assess and verify the effects of the proposal on the PH Ramsar and at annex A that the adverse impacts on the SSSI should be assessed by the developer before determination ( not done) ALP Policy SD SP1 Sustainable development which states that the presumption in favour will not be applicable where development requires an Appropriate Assessment or where consideration of the need for one is being undertaken.
- Framework Paragraph 11 footnote 6 which states The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; ..... and areas at risk of flooding or coastal change all of which apply in this case
- Framework paragraph 177 which states *The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*
- The fact that the response received from the Council's Ecology Advisor dated 29 January 2020 is not as stated in your report as she in fact requests a range of information relating to protected species and mitigation be provided as part of the application and prior to determination in accordance with ALP ENVDM5 and not by way of condition as you propose. I also note that your refer to a submitted Environmental Impact Assessment in your report but I think that is a typo?
- The fact that ALP Policy ENV DM 2 states that *Within Zone B (0-5km) for all new residential development and development which is likely to have an impact on Pagham Harbour will be required to: i. Make developer contributions towards the agreed strategic approach to access management at Pagham Harbour.(which this proposal does) but also ii. create easily accessible new green spaces for recreation within or adjacent to the development site. These shall be capable of accommodating the predicted increases in demand for local walking, including dog walking. Good pedestrian links shall be provided between housing areas and new and existing green space in order to discourage car use* which this proposal does not
- *My e mail to you dated 17 July 2020 and the fact that the Environment Agency has not been consulted in accordance with the document attached to their consultation response dated 6/7/20 entitled When to consult the EA which includes matters applicable here such as works affecting water courses, groundwater protection zones and pollution from land contamination*
- *The fact that the applicant states that Surface water Drainage is to achieved by discharge to a nearby ditch and not by SUDS Scheme, the councils Supplementary Requirements for Surface Water Drainage at <https://www.arun.gov.uk/surfacewater/> and the fact that where details have been submitted as part of an outline application, they must be treated by the local planning authority as forming part of the development for which the application is being made. Conditions cannot be used to reserve these details for subsequent approval. (PPG Paragraph: 005 Reference ID: 21a-005-20190723) revision date: 23 07 2019*
- *The fact that the drainage ditch into which the surface water is to be discharged runs through an adjoining area in Flood Zone 2 and 3 and your Drainage engineers make it clear that the applicants stated drainage proposals are not acceptable*
- *WSCC as the Lead Local Flood Authority has not been consulted*
- *Finally I would remind you that a refusal can be addressed under delegated powers and without the need for a committee referral as this is only necessary because you recommending approval as a departure from the development plan and contrary to a Parish Council objection*

I appreciate that it is not the practice of ADC Officers to respond to representations on "LIVE" applications but frankly given the matters I am raising it is a bit late for you to respond to me after you have mislead members and

the Committee so hopefully I will hear from you before close of play on 23 July as requested but if not place this on the file and report same in the Officers update report as a representation.

Paul Collins BA (Hons) DipTP

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From: paul collins

Sent: Monday, July 20, 2020 3:40 PM

To: 'Amy Myer' <Amy.Myer@arun.gov.uk>; 'Daniel Vick' <Daniel.Vick@arun.gov.uk>; 'Neil Crowther' <Neil.Crowther@arun.gov.uk>; 'Karl Roberts' <Karl.Roberts@arun.gov.uk>

**Subject:** RE: P/116/19 OUT - Land adjacent to Sefter School House Sefter Road Bognor Regis PO21 3EE

Dear Ms Myer

Thank you for sending me a read receipt with regard to my e mail below. Please record this as a further representation and bring it and any response you may wish to make to the attention of your members by way of your Update Report for the DCC on 29 July.

Since sending that e mail I have had the opportunity to read your Officers report for the DCC on 29 July 2020 (published on 17 July 2020) and given our correspondence to date I am surprised to note that you are recommending that the application be approved conditionally given the clear, unequivocal and acknowledged conflict between the principle of developing this site as proposed and a whole raft of development plan policies and some in the emerging NP.

Your report states that this recommendation results from the Councils inability to demonstrate a 5 year land supply and the resulting application of the Presumption in favour of sustainable development at paragraph 11 of the NPPF 2019 but with all due respect it is clear from the file and your report that you have reached this conclusion and recommendation on the basis of a flawed assessment of the submitted application and, once again with all due respect, misunderstandings and misrepresentations of relevant DP policies and statutory consultee responses and without due regard to the law.

I also note that in the report you refer to a recent appeal decision which established that the Council could only demonstrate a 2.99 year HLS seemingly by way of support for your view that the 5YHLS Shortfall and the PIF trumps the acknowledged in principle conflict with ALP 2018 and emerging NP policies relating to the BUA and Countryside protection. I agree that Appeal decisions relating to similar sites with similar issues can be material considerations and therefore attach the appeal decision to which I think you refer. What your report does not tell members or the public is the fact that the appeal application was refused on the recommendation of officers for 2 reasons and that the second reason was because the proposal for housing was in principle unacceptable because the site lay outside the bua and in the countryside contrary to the same relevant ALP 2018 and emerging NP Policies that are applicable here and that despite the Inspector finding that the 5YHLS was 2.99 years and (not 5.3 years as claimed by ADC Officers when determined ) and that the PIF was engaged and that none of the areas or assets set out in footnote 6 to the PIF would be affected by the proposal the appeal was dismissed for the reasons set out in paragraphs 64 -- 69 of the decision which reflected RR 2 cited by Officers because of the weight that he as the decision maker chose to give to those material considerations. The decision has not been challenged to my knowledge?

In the case of the subject application the site lies outside of a defined bua and in the countryside and is contrary to the relevant policies in both the ALP 2018 and the emerging NP prepared in conformity with same and unlike the appeal decision case areas or assets set out in footnote 6 to the PIF (habitats sites (and those sites listed in paragraph 176 ) and/or designated as Sites of Special Scientific Interest (see NPPF Paragraph 177) and an area at risk of flooding or coastal change) would be affected by the proposal so despite the significant 5yhls shortfall and

notwithstanding the criticisms I will make of your report, I find it impossible to understand why Officers are recommending approval in this case but very easy to understand why Members should reject such a recommendation and refuse the application as a matter of principle in a manner that would be easy to successfully defend at appeal (with no risk of a costs award) should such a need arise.

I am registered to speak at the DCC on 29 July 2020 and will do so by way of my preference for a written submission to be read to members but because of the criticisms of the officers approach in this case and your published report that it will be forced to publically make I will be sending this to you in advance of the meeting under separate cover so that you and the responsible managers can be given a heads up opportunity to read my submission and can either consider preparing a proper response for the DCC or withdrawing the report before the DCC. If you decide on the latter perhaps you could let me know before close of play on 23 July 2020 so that I can avoid wasting my time and that of the DCC in having to prepare and make that submission.

This is one where Members and ADC Officers could for once be speaking with one voice to the same effect and I commend such an approach to you not least because I am sure that PPC and residents would metaphorically carry you shoulder high through the streets if you did.

Thanks

Paul Collins BA (Hons) DipTP

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**From:** paul collins [REDACTED]  
**Sent:** Friday, July 17, 2020 12:31 PM  
**To:** 'Amy Myer' <Amy.Myer@arun.gov.uk>; 'Daniel Vick' <Daniel.Vick@arun.gov.uk>; 'Neil Crowther' <Neil.Crowther@arun.gov.uk>

**Subject:** P/116/19 OUT - Land adjacent to Sefter School House Sefter Road Bognor Regis PO21 3EE

Dear Ms Myer

Please add the following to the Pagham Parish Councils representations regarding this application and include same in your report to the DCC and place this representation on your file.

*Given the Applicants Land Contamination report and soil reports shared with Arun District Council and the public in July 2020 and the fact that this site is heavily contaminated due to previous unauthorised uses and the site is already draining contaminated surface water into existing water courses which in turn drain into the Pagham Harbour RAMSAR, Pagham Parish Council requests that Arun District Council liaise with WSCC as the Lead Local Flood Authority, Natural England, The Environment Agency and SWS Ltd with a view to exercising their relevant powers so as to require that the landowner decontaminate the site, improve the existing land drainage ditches and safeguard water quality in the Pagham Harbour RAMSAR ( in accordance with ALP 2018 Policies ENV SP1 Natural Environment, ENV DM2 Pagham Harbour, W SP1 Water, W DM1 Water supply and quality, W DM2 Flood risk, W DM3 Sustainable Urban Drainage Systems, QE SP1 Quality of the environment and QE DM4 Contaminated land) before granting any planning permission for the redevelopment of the site contrary to the development plan.*

*In this regard Pagham Parish Council takes this opportunity to remind ADC that Conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act) may not be used and that Grampian conditions ( ie those prohibiting development authorised by the planning permission or other aspects linked to the planning permission from taking place until a specified action has been taken should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission and that in such circumstances and where such matters are fundamental to the principle of developing the site the right and proper course of action is to refuse the permission sought until the subject issue that prevents development has been resolved. You are also reminded that whilst it is reasonable for statutory consultees and other third parties to suggest conditions to make a development acceptable in planning terms, the decision as to whether*

*it would be appropriate to impose such a condition rests with the decision maker (i.e in this case ADC - See PPG Use of planning conditions ID: 21a-001-20140306 and NPPF 2019 Decision-making Paragraphs 38 to 58)*

Thanks

**Paul Collins BA (Hons) DipTP**



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## Costs Decision

Hearing Held on 15 January 2020

Site visit made on 15 January 2020

**by R J Jackson BA MPhil DMS MRTPI MCMI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 February 2020

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### **Costs application in relation to Appeal Ref: APP/C3810/W/19/3236911 Land adjacent to Bonhams and Flints, Hoe Lane, Flansham PO22 8NP**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Edward Van der Wee, Pallant Homes Ltd for a full award of costs against Arun District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for development of the site by the erection of 10 dwellings with access from Hoe Lane, Flansham.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Procedural matters**

2. The applicant made their application orally at the Hearing, principally by reading out a pre-prepared statement, although making a few changes in light of the discussions and actions at the Hearing. While it had been intimated to the Council that an application was to be made, the applicant did not provide the Council with his reasoning prior to the event.
3. The Council felt that it could not, fairly, respond to the application at the Hearing. I therefore agreed that it could submit a written response after the Hearing closed with the applicant having the opportunity to provide final written comments thereafter.
4. As all the parties are aware of the cases being made it is not necessary for me to set them out in this decision.

### **Reasons**

5. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
6. The applicant set out five main grounds and some other points where it considered that the Council had acted unreasonably on substantive matters and one additional ground on a procedural matter. I will go through each in turn. I will then assess whether those areas where I find unreasonable behaviour led to unnecessary or wasted expense.

7. The first ground relates to the situation when the Council determined the application in March 2019 on the basis that, in the applicant's view, had the Council considered the matter correctly, it would have been unable to demonstrate a five year supply of land for housing (5YHLS). This would have led to it utilising the so-called 'tilted balance' which can be found in paragraph 11 d) of the National Planning Policy Framework (the Framework), rather than the 'conventional balance', and in light of this would have approved the application therefore making the appeal unnecessary.
8. The Arun Local Plan 2011 – 2031 (the ALP) was adopted in July 2018. Therefore, in line with footnote 38 of the Framework, this plan should be considered 'recently adopted' until 31 October 2019 and it can reasonably be assumed that at adoption the Council was able to demonstrate a 5YHLS. This would be maintained until 31 October 2019. Consequently, at the date of its decision the Council could reasonably conclude that it had a 5YHLS.
9. In any event it seems to me that even if the Council had concluded that it was unable to demonstrate a 5YHLS at the point of making its determination, it is not inevitable that it would have granted planning permission, especially where the Council considered that the proposal had a number of other harmful effects. Where a proposal is contrary to the overall development plan, as here, it cannot be concluded that planning permission should inevitably have been granted as the weight to be given to the plan and other material considerations is a matter of planning judgement. This ground therefore does not succeed.
10. The second ground relates to the use of the 930 figure for the annual housing requirement for the period 2016/17 to 2020/21 when the Council had accepted that this represented a "minor error" and should have 1,120 dwellings per annum. The applicant also sought to show that the lack of evidence presented to the hearing as to the deliverability of four Strategic Allocation sites was unreasonable.
11. Although the Council accepted that it had realised that the 930 figure in the originally adopted plan in July 2018 was in error and had changed the text in Policy H SP1 of the ALP my impression was that it forgot that it also needed to amend the annual requirement indicator line in Picture 12.1. This led to the inconsistency which the Council then sought to justify by reference to extrinsic material. For reasons I explain in my decision this was not necessary or appropriate. This behaviour was unreasonable.
12. The definition of deliverability in the Glossary to the Framework and footnote 6 of that document put a presumption on the Council to demonstrate that sites meet that definition. Not to provide any evidence beyond verbally reporting conversations with developers, landowners and site promoters, is not meeting that presumption. For the four sites in question the Council failed to demonstrate that they were deliverable and to provide no evidence in support of its assertions was unreasonable.
13. The third ground was the applicant maintained that the Council had acted unreasonably when it maintained that whether the 5YHLS figure was 3.7 years or 2.9 years it would have put forward the same arguments. The Council responded by indicating that as the starting point of the determination is the development plan that this was not unreasonable.

14. Clearly, the extent of any shortfall is a material consideration to be taken into account which will affect the weight given to that shortfall as an other material consideration and the Council did not demur from this. Rather as with ground one, the weight to be given to those factors is a matter for the decision maker and here the Council justified its position. I therefore consider that the Council did not act unreasonably in this ground.
15. The fourth ground that the Council relied on an incorrect assessment of paragraph 12 of the Framework when the plan should have been considered out-of-date. For the reasons set out in relation to ground one at the date of the determination of the application by the Council this was not incorrect; it was only thereafter did matters change.
16. The final ground was that it was only in its Statement of Case did the Council raise that it considered Flansham to be a non-designated heritage asset, effectively adding a new element to one of the reasons for refusal.
17. The relevant reason for refusal did refer to "assets" in the plural. However, the Officer report stated "there are likely to be further buildings which could be considered non-designated heritage assets (such as Bonhams itself)" which indicates that such assets would be buildings rather than a place. The report then did go on to note that Flansham had a historic character and the reason for refusal indicated there was a "historical character" to Hoe Lane, Flansham. However, these references are some distance from indicating that Flansham or Hoe Lane should be considered a non-designated heritage asset, or making clear what the extent of that asset should be, so that an assessment of the effect on its significance could be made.
18. The Council referred to the PPG<sup>1</sup> where it states "local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications, for example, following archaeological investigations". While archaeological investigations is an example, the PPG does give an indication that the decision to identify a non-designated heritage asset as part of the determination process can follow the discovery of additional or new information and no new or additional information was here identified. Even then, it is not clear what, if any, action has been taken by the Council towards considering whether Flansham should be considered as a candidate for designation as a Conservation Area.
19. To state in its Statement of Case that Flansham should be considered to be a non-designated heritage asset without there being a material change of circumstance in the meantime was therefore unreasonable.
20. Additionally, the applicant did make some further grounds about the case and whether the Council was reasonable in relying upon various factors. In all cases I am of the view that these matters are material considerations and the Council substantiated their use. While I disagree as to the weight that I give to some of the considerations, it was not unreasonable to rely upon them. This therefore does not represent unreasonable behaviour.
21. In addition to the above substantive matters, the applicant made an application on procedural grounds on the basis the Appeal Questionnaire submitted to the Planning Inspectorate by the Council when the appeal was lodged had been

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<sup>1</sup> Reference ID: 18a-040-20190723

accompanied by the previous, incorrect, version of Policy H SP1 of ALP and this was not corrected until the Hearing itself. While the extract from the Council's website provided to me at the Hearing does not set out the date when the "minor error" was corrected, it was clear that this was before the Questionnaire was submitted in October 2019. To provide the out-of-date version was unreasonable.

22. Therefore, I conclude that the application is made out on two of its grounds amounting to three different elements; relating to the appropriate figure against which to judge land supply, the failure to supply evidence in relation to the deliverability of four Strategic Allocation sites, and whether Flansham should be considered a non-designated heritage asset. In relation to all of these matters the appellant was required to expend costs to provide evidence to counter the propositions put forward by the Council and time was spent at the Hearing discussing these matters. This was unnecessary.
23. However, the amount of time spent dealing with the error in the version of the ALP submitted with the Questionnaire at the Hearing was minimal and effectively formed part of the discussions about the correct housing figure. I therefore consider that there was no additional wasted expense occasioned by this unreasonable behaviour.

### **Conclusion**

24. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

### **Costs Order**

25. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Arun District Council shall pay to Mr Edward Van der Wee, Pallant Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to:

- the appropriate figure against which to judge housing land supply;
- whether the four Strategic Allocation sites should be considered deliverable; and
- whether Flansham should be considered as a non-designated heritage asset;

such costs to be assessed in the Senior Courts Costs Office if not agreed.

26. The applicant is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*RJ Jackson*

INSPECTOR

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## Appeal Decision

Site visit made on 23 March 2020

**by Andrew Bremford BSc (Hons) MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 April 2020**

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**Appeal Ref: APP/C3810/W/19/3243619**

**Ryefields Farmhouse, Oak Tree Lane, Woodgate PO20 3GU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Robert Turner, Turnbull Land against Arun District Council.
  - The application Ref AL/72/19/PL, is dated 23 August 2019.
  - The development proposed is the demolition of existing buildings and the erection of ten houses, comprising 1 x three bedroom detached, 6 x three bedroom semi-detached, and 3 x four bedroom detached houses, with associated access and parking.
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### Decision

1. The appeal is dismissed and planning permission is refused.

### Procedural Matters

2. The Council issued a refusal notice on 24 December 2019, but this post-dates the lodging of the appeal. Therefore, I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, the Council's refusal notice and appeal statement outlines what decision it would have made had it been able to do so within the statutory timescale. Such reasons have formed the basis of the main issues as detailed below.
3. Since the appeal was lodged, the appellant has submitted a planning obligation by way of a Unilateral Undertaking dated 13 March 2020 pursuant to section 106 of the Act<sup>1</sup>. This provides for financial contributions towards education, fire and rescue, healthcare infrastructure, highways and libraries. I shall return to this matter later.

### Background and Main Issues

4. It is not disputed that the local planning authority cannot presently demonstrate a deliverable 5-year supply of housing sites. Indeed, the Council states that its most up-to-date figures show a housing land supply of 3.7 years. Moreover, the appellant cites a recent appeal decision<sup>2</sup> where the Inspector concluded that the Council's deliverable supply of housing sites is approximately 2.9 years. Therefore, the presumption in favour of sustainable development contained in paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. Permission should therefore be

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<sup>1</sup> Town and Country Planning Act 1990.

<sup>2</sup> Appeal Reference: APP/C3810/W/19/3236911

granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

5. In the context of the above, the main issues are:

- whether the proposed development would prejudice the comprehensive delivery of development in respect of the Barnham/Eastergate/Westergate strategic allocation;
- the effect of the proposal on highway and pedestrian safety;
- whether there would be satisfactory arrangements for the collection of refuse;
- whether the proposal would be capable of providing satisfactory foul and surface water drainage; and
- whether the proposal makes adequate provision for any necessary infrastructure, services and facilities arising from the proposed development.

## **Reasons**

### *Site and proposal*

6. The appeal site forms part of the wider garden area of Ryefields Farmhouse. It is generally a flat grassed area with a few small recreational buildings and some trees at the eastern end and along the boundary with Oak Tree Lane which, at this point, is an unmade private track. The track is a cul-de-sac which serves Ryefields Farmhouse and a complex of buildings east of the appeal site. To the west of the site Oak Tree Lane serves residential properties before it joins Lidsey Road (the A29).
7. The proposal is for the demolition of the existing buildings and the erection of ten houses, with associated access and parking. The houses would be arranged along a new service road and set back from Oak Tree Lane. The design of the properties would be traditional in form and style and would be a mix of semi-detached and detached. Thus, would generally reflect the character and appearance of existing residential development in Oak Tree Lane west of the appeal site.

### *Strategic Allocation*

8. Policy H SP1 of the Arun Local Plan 2011-2031 (2018) (LP) sets out that within the plan period at least 20,000 new homes will be accommodated in the District. The policy allocates 2,300 units to the strategic housing site (SD5) Barnham/Eastergate/Westergate (BEW). The appeal site forms a small part of the BEW strategic allocation and the proposed 10 dwellings would contribute towards the 2,300 units within the plan period.
9. Policy H SP2 of the LP states that development proposals within the strategic site allocations must be comprehensively planned and should have regard to a masterplan endorsed by the Council for the respective areas which incorporates high quality imaginative design giving a sense of place and a permeable layout. It goes on to explain that the comprehensive development of each strategic allocation will need to meet a number of key requirements.

Policy H SP2c of the LP sets out the key design and infrastructure requirements for the BEW strategic allocation. Amongst other things, they include the delivery of green infrastructure to preserve the separate identities and avoid any further physical coalescence of the three villages of Barnham, Eastergate and Westergate, a layout to take account of the location of the railway line crossing the strategic allocation, housing designed around a linear park which follows along the Lidsey Rife, and a new A29 route through the strategic allocation.

10. I have been presented with an 'Illustrative Masterplan' for the BEW strategic allocation (Drawing Number 00605B\_SK\_008 Revision C). The evidence before me indicates that the masterplan is a draft version that was subject to a public consultation exercise in February 2019. Furthermore, the Council say that the masterplan for the BEW allocation is still in draft form and a revised version is expected to be available in spring 2020.
11. Although the masterplan before me is indicative in nature and therefore subject to change, it nonetheless indicates that the proposed development would conform to the land use and development pattern within this part of the BEW allocation. I have not been presented with any compelling evidence to demonstrate that the site would not form part of a wider parcel of land proposed for housing as part of a revised masterplan. Indeed, the evidence indicates that there is no dispute between the main parties that the principle of residential development on the site is acceptable.
12. The site is located approximately 750 metres west of the proposed realigned A29 and around 50 metres south of the existing railway line. It is also approximately 350 metres west of the Lidsey Rife river corridor where the proposed 'Rife Valley Park', a linear park with sustainable drainage elements, open space and amongst other things walking and cycling routes would be located.
13. Thus, within this context, and taking into account the peripheral location of the site within the BEW strategic allocation area, its relative small-scale and proximity to existing residential development, the proposal would not impede any future highway, lead to a further physical coalescence of the aforementioned villages, or affect the ability to deliver green infrastructure in the form of the proposed linear park. Moreover, the proposal would not block any existing pedestrian or vehicular routes or impede the proposed buffer zone and screening planting alongside the railway line. Taking into account the size of the site, which is around 0.33 hectares, and its location some distance from the more central parts of the strategic allocation, in my judgement, the development would neither offer any realistic possibility of accommodating, nor compromising, the delivery of the other infrastructure required by Policy H SP2c of the LP, such as a new local centre, schools and potential employment development.
14. An agreed masterplan would show the location of the site in the context of future surrounding streets. It would also show the wider network of movement by foot, cycle and public transport. However, taking into account that the location of the site is within an area proposed for housing, I have not been presented with any substantive evidence to demonstrate that the proposal would not be capable of functioning as part of the wider neighbourhood within the BEW strategic allocation, including in regards to accessibility to non-car

modes of transport. This is within the context that the draft masterplan which indicates that the development would include improved infrastructure in the form of walking and cycling routes and east-west connections to Barnham railway station, and the proximity of the site to Lidsey Road where a bus service operates between Bognor Regis, Barnham railway station and other settlements in the surrounding area.

15. For the reasons outlined above, I conclude that the proposed development would not prejudice the comprehensive delivery of development in respect of the BEW strategic allocation. Consequently, it would not conflict with Policies H SP2 and H SP2c of the LP which, amongst other things, seek to ensure development proposals within strategic allocations are comprehensively planned to ensure a sense of place and a permeable layout, and incorporate key design and infrastructure requirements. Furthermore, it would not conflict with the National Planning Policy Framework (the Framework) in so far as it seeks to promote development that provides access to a network of open spaces for the health and well-being of communities; functions well and adds to the overall quality of an area; and establishes a strong sense of place.

#### *Highway and Pedestrian Safety*

16. The appellant asserts that given the location of the site and the relatively small scale of the proposal, the development could be built out independently of the BEW strategic allocation; thus, before the implementation of wider infrastructure including new roads, cycleways and footways.
17. Access to the development would be over a relatively short section (around 20 metres in length) of unmade track, before joining the surfaced section of Oak Tree Lane. Notwithstanding its relatively short length there are no continuous kerbs and there are no footways alongside the track. I saw at the time of my site visit that the track surface was uneven and there were potholes of varying size and depth along the section of track between the location of the proposed entrance to the site and the surfaced section of Oak Tree Lane.
18. My attention has been drawn to the National Design Guide (NDG)<sup>3</sup>, which states *'in well-designed places, streets are public spaces that are open to all. They encourage people to walk and cycle rather than to depend upon cars, particularly for short, local journeys. They are accessible to all and designed to meet the needs of their most vulnerable users'*.
19. The appellant says that the track is extensively used by pedestrians and cyclists to access other properties without incidents. I have taken into account the representation from the Highway Authority and acknowledge that the short section of unmade track would not present any significant difficulties for vehicles, pedestrians and cyclists.
20. However, by virtue of its aforementioned condition, notwithstanding its relatively short length, the uneven surface of the track would not be suitable for wheelchair users. Nor would it be suitable for blind or partially sighted people due to the lack of a conventional kerb, because this is a feature that blind and partially sighted people often rely on to find their way around. Moreover, the existing condition of the track, in my judgement, would represent a significant trip hazard for blind and partially sighted people.

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<sup>3</sup> Paragraphs 102 and 104

21. For the reasons outlined above, I conclude that the proposed development would not be accessible to all users other than by vehicle and would not meet the needs of vulnerable users. Consequently, it would not accord with Policy T SP1 of the LP which, amongst other things, seeks to ensure that development proposals provide safe access on to the highway network and consider the needs of people with disabilities by all modes of transport. Furthermore, it would also fail to meet the Framework's requirement, as set out in paragraph 108 b), that development proposals ensure that safe and suitable access to the site can be achieved for all users.

*Collection of refuse*

22. The proposed development includes two bin collection points positioned either side of the site entrance off Oak Tree Lane. The appellant says that refuse collection vehicles would be able to collect refuse from these collection points. However, such an arrangement would require future occupants of the proposed development to move their waste bins, up to around 60 metres in the case of plots 7 and 10, from their properties to the bin collection points in readiness for collection by the waste collection authority. Taking into account the distance involved, and as a matter of fact and degree, I do not consider the location of the proposed bin collection points are sited to enable all future residents to conveniently manoeuvre waste bins to the proposed collection points.
23. Therefore, the waste collection authority would need to access the site to collect waste from the kerbside. The appellant's evidence demonstrates that a refuse collection vehicle of approximately 10 metres in length would be able to safely manoeuvre and turn within the site. However, the Council has drawn my attention to their guidance<sup>4</sup> which sets out that collection of bins from private roads may be possible as long as certain criteria can be fulfilled. It states, amongst other things, that when a through road does not exist (as in this case), a turning area must exist and a 12 metre long vehicle must be able to turn around in three manoeuvres or less.
24. The road layout of the proposed development would include a turning area. However, I have not been presented with any compelling evidence to demonstrate that the turning area would enable a 12 metre long vehicle to turn around in three manoeuvres or less.
25. Therefore, notwithstanding the size of any other waste collection vehicles which may currently be in operation in the vicinity of the site, for the reasons outlined above, I conclude that the proposal fails to demonstrate that kerbside collection of waste bins from the proposed residential development would be possible for waste collection vehicles of 12 metres in length.
26. Consequently, in this regard, the proposed development would not accord with Policy WM DM1 of the LP which states that new residential development will be permitted provided that it is designed to ensure that kerbside collection is possible for municipal waste vehicles. It would also conflict with the Framework which seeks to achieve well-designed places that function well, not just for the short term but over the lifetime of the development.

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<sup>4</sup> <https://www.arun.gov.uk/rubbish>

*Foul and surface water drainage*

27. Notwithstanding that the site lies within Flood Zone 1 the evidence before me indicates the area of the proposed development is at high risk from groundwater flooding. The planning application form states that disposal of foul water would be to mains sewer and disposal of surface water run-off from the site would be to a sustainable drainage system (SuDS).
28. Policy W DM1 states, in criteria (3), that within the Lidsey Wastewater Treatment Works Catchment Area (in which the site lies) proposals for major development must be accompanied by a full Drainage Impact Assessment which must take account of surface water and foul water disposal.
29. Whilst I have not been presented with a full Drainage Impact Assessment the appellant has submitted a 'Flood Risk / Drainage Management Statement'. However, it only sets out a strategy for the disposal of surface water run-off from the site; it does not include a strategy for the disposal of foul water. Thus, I have not been presented with any substantive evidence to demonstrate that the impact of the proposed development, both individually and cumulatively, upon foul water disposal within the Lidsey Wastewater Treatment Works Catchment Area would be acceptable.
30. Turning to surface water drainage, the 'Flood Risk / Drainage Management Statement' confirms the intention to dispose of surface water run-off to a new SuDS system within the site in accordance with current good practice and guidance<sup>5</sup>.
31. However, taking into account the site lies within an area at high risk of groundwater flooding, the statement does not include evidence of winter groundwater monitoring and winter infiltration testing to determine the area take up required for the SuDS system. Thus, without this information, it is unclear whether there would be adequate space within the layout of the proposed development to accommodate a SuDS system, or indeed whether such a system would have enough capacity thereby ensuring that the proposed development would not increase flood risk elsewhere.
32. I have not been presented with any compelling evidence to demonstrate that should a SuDS system not prove a practical solution for the disposal of surface water run-off, for example due to there being inadequate space within the layout of the proposed development to accommodate such a system, that an alternative arrangement would be capable of being implemented. The evidence indicates that there are no watercourses in proximity of the site which would be capable of receiving surface water run-off discharged from the proposed development and Southern Water, as the sewerage undertaker, has not indicated that it would be acceptable to discharge surface water run-off to the foul water drainage network.
33. For the reasons outlined above, I conclude that inadequate information has been provided to demonstrate that the proposed development would be capable of providing satisfactory foul and surface water drainage. Consequently, in this regard, it would conflict with Policies W DM1, W DM2 and W DM3 of the LP which, amongst other things, seek to ensure that development proposals take account of both the individual and cumulative

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<sup>5</sup> CIRIA, The SuDS Manual (C753), 2015

impact upon foul water disposal; demonstrate that they will not increase flood risk elsewhere; and demonstrate that a SuDS system can be incorporated within the private areas of the site and are appropriately sized by carrying out groundwater monitoring within the winter period and winter percolation testing. The proposal would also conflict with Policy EH5 of the Aldingbourne Neighbourhood Development Plan (2016) which seeks to ensure that new development proposals provide clear evidence that they would make appropriate provision for accommodating the surface water and foul water arising from the development.

#### *Planning obligation*

34. As noted above, the submitted planning obligation provides for financial contributions towards education, fire and rescue, healthcare infrastructure, highways and libraries. These contributions are in respect of infrastructure and services to meet the needs of occupiers and users of the development and the existing community, and the key infrastructure requirements proposed to be delivered within the BEW strategic allocation.
35. The Council's appeal statement indicates that financial contributions would also be required towards public open space, sport and recreation, a community centre, policing, and a flood alleviation scheme to serve the wider allocation.
36. However, notwithstanding the existence of the planning obligation submitted as part of the appeal and the Council's assertion that the appeal proposal would only be acceptable with further contributions towards the aforementioned infrastructure and services, as I am dismissing the appeal for other reasons it has not been necessary for me to consider this matter in any further detail.

#### **Other Considerations**

37. I have taken into account the various benefits of the proposed development identified by the appellant under the headings of economic, social and environmental in line with the three objectives set out in paragraph 8 of the Framework.
38. The proposal would seek to boost the supply of housing in the context that the Council cannot currently demonstrate a deliverable five-year supply of housing land by quite some margin. However, the proposal is only for ten new dwellings and therefore its contribution to future housing provision would be relatively modest. This is not to lessen the contribution that the proposed development would make to the housing shortfall, since as paragraph 68 of the Framework states, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
39. I have no doubt that the occupiers of the proposed dwellings would help to support local facilities and services, although the economic contribution from the occupiers of ten dwellings would not in itself be a very significant benefit. Furthermore, the proposal would lead to some employment through the construction of the dwellings, although this would be a short-term benefit.
40. In determining this appeal, I afford the above considerations positive weight in the overall planning balance.

## **Planning Balance and Conclusion**

41. I have found that the proposed development would not be accessible to all users other than by vehicle and would not meet the needs of vulnerable users. Furthermore, the proposal fails to demonstrate that there would be satisfactory arrangements for the collection of refuse and capable of providing satisfactory foul and surface water drainage. I afford substantial weight to these matters as part of the determination of this appeal noting conflict with both development plan and Framework policies.
42. Although I have found that the proposed development would not prejudice the comprehensive delivery of development in respect of the BEW strategic allocation, this is a matter of neutral consequence in the overall planning balance.
43. In conclusion, I find that the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to a sustainable form of development and therefore the appeal should be dismissed and planning permission refused.

*Andrew Bremford*

INSPECTOR