

BIRMINGHAM
BRISTOL
CAMBRIDGE
CARDIFF
EDINBURGH
GLASGOW
KINGS HILL
LEEDS
LONDON
MANCHESTER
NEWCASTLE
READING
SOUTHAMPTON

**BARTON
WILLMORE**

bartonwillmore.co.uk
26 Kings Hill Avenue
Kings Hill
West Malling
Kent
ME19 4AE

Neil Crowther
Group Head of Planning
Arun District Council
Strategic Development
First Floor, Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

VIA EMAIL

20928/A3/HH/mg

18 February 2021

Dear Neil

PLANNING APPLICATION NO: P/1/21/PL
SITE: LAND AT SUMMER LANE PAGHAM
PLANNING APPLICATION NO: P/4/21/PL
SITE: LAND AT SEFTER ROAD, HOOK LANE AND PAGHAM ROAD PAGHAM
LETTER OF OBJECTION: TAYLOR WIMPEY UK LIMITED

We act on behalf of Taylor Wimpey UK Limited and write to object to the above-mentioned planning applications for the material change of use from agricultural use to open space use. Part of the application site area for planning application ref. P/4/21/PL is within Taylor Wimpey's land ownership and therefore it has a significant interest in this planning application.

Reasons for Objecting

Our reasons for raising an objection to the proposed change of use planning applications are set out fully below, but in summary include the following matters which are material considerations within the decision making process:

- The change of use planning applications are contrary to the Development Plan.
- The change of use planning applications include application sites subject to extant planning permission for residential-led development.
- The change of use planning applications have no prospect of being implemented.



Registered in England
Number: 02042022

Barton Willmore LLP
Registered Office:
The Square
Abbey Square
Reading
RG1 1BB
0118 9611111
0118 9611111

- The creation of strategic open space should be properly planned for through the Local Plan process.
- The change of use planning applications are not supported by any evidence demonstrating an identified need for open space within Pagham.
- The change of use planning applications, if approved, could impact upon the delivery of housing at sites allocated for housing development through the Arun Local Plan and which have the benefit of planning permission for residential-led development.
- Permitting the change of use could not only impact much need residential development being delivered but also valuable health and community infrastructure including a 1FE school, care home, scout hut, ambulance community response post.
- In relation to planning application no. P/4/21/PL, the applicant for the change of use planning applications has no interest in the land subject to the application. The applicant for planning application no. P/1/21/PL does not own land subject to the whole application site area. Our client fully intends to implement the extant outline planning permission for residential-led development (ref. P/134/16/OUT) and does not intend to dispose of the site or implement any future alternative planning permission for a change of use to open space. The proposals for which permission is sought therefore have no reasonable prospect of being delivered.

Extant Planning Permissions

Planning Application No: P/1/21/PL at 'Land at Summer Lane Pagham' includes land allocated for residential led development within the application site area. (SD1: Pagham South).

The planning application area includes land which is the subject of outline planning permission for a *mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route and other community uses including public open space and allotments with some matters reserved. Access applied for in detail. (Outline Planning Permission ref. P/140/16/OUT). Approved 22 November 2018. 'Land South of Summer Lane and West of Pagham Road'*

Land to the North of Summer Lane is also subject to Reserved Matters consent for 90no. dwellings. (ref. P/70/19/RES). A planning application for an additional 36no. dwellings is currently being considered by Arun District Council (ADC). (ref. P/97/20/PL).

Planning Application No: P/4/21/PL at 'Land at Sefter Road, Hook Lane and Pagham Road Pagham' includes land allocated for residential led development within the application site area (SD2: Pagham North).

The planning application area includes land to the north of Sefter Road which is within Taylor Wimpey's land ownership. This part of the application site is subject to outline planning permission for the *development of up to 280 dwellings (including affordable homes), land for a replacement scout hut, land for an Ambulance Community Response Post Facility and land for either a 1FE primary school or care home. Provision of a primary vehicular access from Sefter Road and demolition of No. 80 Rose Green Road and creation of a pedestrian and emergency only access. Provision of Public Open Spaces including associated children's play areas, landscaping, drainage and earthworks. Access applied for in detail, all other matters reserved. (Outline Planning Permission ref. P/134/16/OUT). Approved 15 October 2019. 'Land North of Sefter Road'.*

The application area north of Sefter Road includes the approved site access. To the south of Sefter Road (at Hook Lane and Pagham Road) the application area includes land subject to Outline Planning Permission for the *construction of up to 300no. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook land and Pagham Road, new pedestrian and cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features and associated ground works and infrastructure.* (Outline Planning Permission ref. P/30/19/OUT). Approved 2 September 2019. 'Land North of Hook Lane'.

A Reserved Matters application has been submitted and is currently pending consideration by ADC at 'Land North of Hook Lane'. (ref. P/132/20/RES).

It is clear that both application sites are subject to extant planning consents for residential-led development, further detailed Reserved Matters applications are either pending consideration by ADC or have been approved and there is a clear intention of delivery of residential-led development at these application sites. The principle of residential led use has clearly been established through the grant of the planning permissions and as such is a clear material consideration which should be afforded significant weight within the decision making process.

Conflict with the Development Plan

Para. 11d of the NPPF notes that where development plan policies which are most important for determining the application are out-of-date (including situations where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Para. 12 of the NPPF confirms that *"the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*

The primacy of the Development Plan has been clarified within Appeal decisions. In a High Court decision Mr Justice Holgate expressed that decisions on planning applications are governed by the Development Plan read as a whole, unless other material considerations indicate otherwise. (*Gladman Developments Ltd v. SSHCLG* [2020] EWHC 518 (Admin)). This is set out within Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 which requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

It is recognised that due to ADC's scale of housing shortfall, the 'presumption in favour of sustainable development' is engaged. In this instance, it is considered that the most important policies for determining these change of use planning applications include Local Plan policies H SP1 (The Housing Requirement), H SP2 (Strategic Site Allocations), H SP2a (Greater Bognor Regis Urban Area including Pagham (SD1 Pagham South and SD2 Pagham North), SD SP2 (Built-Up Area Boundary) as the application sites include land which is allocated for housing development within the Local Plan. It is incorrect to consider that such policies carry 'no weight' within the decision making process and Appeal decisions have confirmed the primacy of the Development Plan when applying the 'presumption in favour of sustainable development'.

Furthermore, it is recognised that these policies cannot be considered to be 'out of date' within this context where they also allocate land for community uses and public open space, provision of enhanced cycle network and provision of accessible pedestrian and cycle routes to Bognor Regis Town Centre and as such the development proposals should also be considered against the provision of these criteria. The development proposals do not seek to provide any such contribution towards community uses or cycle or pedestrian network.

Notwithstanding this, the planning applications have been advertised by ADC as a 'departure' from the Development Plan and as such ADC recognise that the change of use planning applications conflict with the Development Plan.

The extant planning permissions for residential development and allocation of these sites for housing within the Local Plan are material considerations which should be afforded significant weight within the decision making process.

Policy H SP2a part f requires the development proposals to provide public open space including children's play areas and landscaping and as such there is already a policy requirement in place covering the application sites which directs the provision of areas of open space.

The change of use proposals will not result in the creation of publicly accessible open space given that the land would remain in private ownership and would not be accessible for public use. Therefore, the change of use proposals would not be in accordance with Policy HWB SP1 (Health & Wellbeing) which notes that all development shall be designed to maximise the impact it can make to promoting healthy communities and reducing health inequalities. This includes providing or contributing to the necessary infrastructure to encourage physical exercise and health, including (amongst other matters) accessible open space. The change of use proposals would not result in the creation of accessible open space.

The application sites are also located within the 'Built-up Area' boundary as defined on the Proposals Map and set out in Policy SD SP2. Para. 7.2.7 of the Local Plan notes that the principles used in defining what is included within the 'Built-up Area' are:

- the main existing residential, industrial and commercial areas;
- all strategic allocations as identified by the Local Plan;
- land on the edges of the urban areas for which planning permission has already been granted for residential or commercial development; and
- other land on which development would be acceptable in accordance with other policies in this plan during the lifetime of the Plan.

Areas outside the 'Built-up Area' boundary are identified as Countryside (Policy C SP1) and the policy notes that development for such uses including quiet, informal recreation and green infrastructure should be permitted in such areas. It is clear that the change of use applications have been proposed in locations which are not appropriate for such uses.

It is clear that new large areas of open space are not suitable within 'Built-up Area' boundaries, particularly without a demonstrated need and Countryside locations are more appropriate for proposals for open space. Furthermore, the planning applications conflict with ADC's strategic approach in managing the Green Infrastructure Network.

Requirement for Open Space Provision within Extant Planning Permissions

Each of the residential-led developments propose publicly accessible areas of open space integrated into the layouts. Design Code Masterplans are required to demonstrate how the detailed proposals will reflect the objective of the development parameter plans and include the requirements to show

how matters such as landscaping and public realm are incorporated into the developments. Furthermore, the Reserved Matters applications are required to provide an adequate level of on-site open space in accordance with Policy OSR DM1 and ADC's Open Space SPD.

Lack of Demonstration of Need for Open Space

The planning applications are supported by very little documentation and there is a clear lack of any evidence demonstrating the need for open space within Pagham and analysis of any existing deficit of open space.

In any event, even if the planning applications were able to demonstrate a need for the open space, the applicant for planning application no. P/4/21/PL has no control or interest in the land subject to the application and the applicant for planning application no. P/1/21/PL does not own all of the land to which the application relates. Our client fully intends to implement the extant permission (ref. P/134/16/OUT) and will not implement any future planning permission for a change of use that could prejudice this. As such, the applicant has no means by which to implement any planning permissions which may be granted and this is a significant material consideration within the decision making process.

Designation of Open Space through the Local Plan process

National planning policy is quite clear that the allocation of contiguous areas of open space should be undertaken through the Local Plan making process. The NPPF notes that "*planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*" (Para. 96)

Housing Delivery

Both planning application site areas include land which is allocated for housing development within the adopted Arun Local Plan. Policy H SP1 identifies that within the plan period 2011 – 2031 at least 20,000 new homes will be accommodated in the District. Policy H SP2a (Greater Bognor Regis Urban Area) notes that strategic site allocations SD1 (Pagham South) and SD2 (Pagham North) will collectively provide at least 1,200 dwellings over the plan period. The development proposals would prevent the full delivery of these strategic allocations and the sustainable growth of Pagham as identified within the Local Plan.

ADC is reliant on the extant planning permission to contribute towards housing delivery over the Plan period. The Housing Delivery Test published by MHCLG on 19 January 2021 indicated a 61% under delivery against ADC's housing requirement set out within its Local Plan. The PPG notes that a 20% buffer on the Local Planning Authority's 5 year land supply should be imposed if housing delivery falls below 85% and that the application of the presumption in favour of sustainable development if housing delivery falls below 75%. (Paragraph: 042 Reference ID:68-042-20190722)

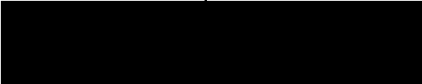
It is clear that the NPPF seeks to enable sustainable growth to take place when the 'presumption' is engaged. The change of use to open space on land, which has planning permission for residential-led development and allocated within the Local Plan for such uses, is not considered to be in accordance with the principles of sustainable growth. The benefits of delivering much needed housing would significantly and demonstrably outweigh the potential benefits of open space, particularly as it has not been demonstrated that there is a need for such open space.

ADC will not be able to address the present deficiency in housing delivery by permitting the change of use of these sites to open space and it is not considered that there are any overriding material considerations which would allow a departure from the Development Plan in this instance.

In conclusion, these development proposals for open space are located on sites with permission for residential-led development, where the principle of residential development has been well established not only through the grant of outline planning permission but also allocation of the sites within the Arun Local Plan for housing, community infrastructure and green infrastructure. The development proposals are considered to be in conflict with the Development Plan and the identified need for the areas of open space have not been justified within the application documents. Furthermore, both national and local planning policy is quite clear that strategic areas of open space should be assessed through the Local Plan making process. The proposals are considered to hinder sustainable, identified growth and as such are not aligned with the principles of sustainable development as set out within the NPPF. These matters should be treated as material considerations within the decision making process which demonstrate why planning permission for the change of use planning application should not be granted.

Furthermore, it is clear that the submission of these change of use planning applications is a thinly veiled attempt to stall the delivery of these strategic housing allocations and we urge that ADC rejects these proposals for change of use to open space.

Yours sincerely


HARDEEP HUNJAN
Senior Planner

cc. Taylor Wimpey UK Ltd
Gowling WLG LLP