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Town and Country Planner

STATEMENT OF REPRESENTATIONS ON BEHALF OF:

Local Residents including Paula Hilton & Brian Biermann at Meadowsweet,
Summer Lane, Pagham, Bognor Regis, West Sussex, PO21 4NG

THE PLANNING APPLICATION (AS STATED ON THE COUNCILS WEB SITE)

ADC Ref: P/97/20 PL

Proposal:

Residential development of 36 No. dwellings (net increase of 15 over current consent P/70/19/RES) including affordable housing (additional 5 units) with associated access, parking & landscaping. This site is in CIL Zone 1 & 4 & is CIL Liable as new dwellings.

Site Address: Land to North of Summer Lane Pagham PO21 4NG

Statement Date: 11 January 2020

1. The site benefits from an outline planning permission (OPP) with all matters except access reserved for the erection of 90 No. dwellings with associated access & open space granted under Council reference P/58/15 OUT and the decision notice and s106 Agreement relating to that OPP can be viewed here

<https://www1.arun.gov.uk/aplanning/OcellaWeb/planningDetails?reference=P/58/15/OUT&from=ArunSiteSearch>
2. It appears to residents that the development of the site commenced pursuant to this permission unlawfully (without compliance with numerous conditions on that permission and the terms of the S106 Agreement on which it is reliant) and appears to be continuing apace on site despite the numerous unresolved complaints, concerns and allegations raised by residents regarding breaches of planning control and a myriad of other breaches of statutory provisions under the highway Acts and legislation designed to protect the environment, avoid flood risk and mitigate the impacts of climate change and safeguard the amenity, property and human rights currently enjoyed by local residents.
3. ADC and WSCC Officers have consistently declined to properly investigate and address these complaints and concerns despite repeated requests for them to do so and a raft of further consents under the planning acts have subsequently been given under delegated powers and by the Development Control Committee (as recommended by officers) but as a matter of law no further planning permissions have to date been granted and development continues on site seemingly in breach of the original OPP granted and the various requested enforcement investigations either remain uninitiated or incomplete and unresolved.

4. The current application under Council Ref: P/97/20 PL is not, in law, as described by the applicant or ADC Officers and is in fact a fresh planning application for permission to develop the site with 105 No. dwellings with associated access & open space and it should be considered on its merits in the light of the current development plan and other material considerations rather than the previous planning history of the site particularly given the unresolved concerns regarding the lawfulness of the ongoing development.
5. Relevant Planning Practice Guidance at Paragraph: 006 Reference ID: 21b-006-20190315 (<https://www.gov.uk/guidance/determining-a-planning-application#how-decisions-on-applications>) states that such applications should be determined as follows:

To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.

6. In this regard it should be noted that the only planning permission for this site under council reference P/58/15 OUT was granted in outline as a departure from the development plan as it existed in September 2016 so that no development now proposed for this site has been tested against the relevant development plan policies as they now exist in the development plan adopted in 2018 or the NPPF 2019 (published by the Government in 2019 which can be viewed here: <https://www.gov.uk/guidance/national-planning-policy-framework>) as required under Section 38 (6) of the Act.
7. As matters currently stand residents and I (on their behalf) consider that the application describes a proposal that is demonstrably in direct conflict with and/or fails to demonstrate compliance with the following up to date development plan policies and these can be viewed at <https://www.arun.gov.uk/development-plan> :

Policy SD SP1 Sustainable development
Policy GI SP1 Green Infrastructure and development
Policy SO DM1 Soils
Policy D SP1 Design
Policy D DM1 Aspects of form and design quality
Policy D DM2 Internal space standards
Policy ECC SP1 Adapting to climate change
Policy ECC SP2 Energy and climate change mitigation
Policy HWB SP1 Health & Wellbeing

Policy OSR DM1 Open Space, sport & recreation (and its supporting Arun District Council Public Open Space, Playing Pitches and Built Facilities January 2020 SPD)
Policy T SP1 Transport and Development
Policy T DM1 Sustainable Travel and Public Rights of Way
Policy T DM2 Public parking (and its supporting Arun District Council Parking Standards Supplementary Planning Document)
Policy HER DM6 Sites of Archaeological Interest
Policy ENV SP1 Natural Environment
Policy ENV DM2 Pagham Harbour
Policy ENV DM3 Biodiversity Opportunity Areas
Policy ENV DM4 Protection of trees
Policy ENV DM5 Development and biodiversity
Policy W SP1 Water
Policy W DM1 Water supply and quality
Policy W DM2 Flood risk
Policy W DM3 Sustainable Urban Drainage Systems
Policy WM DM1 Waste Management and Policy W23: Waste Management within Development in the WSCC Waste Local Plan 2014
Policy QE SP1 Quality of the environment
Policy QE DM2 Light pollution

Policy QE DM3 Air pollution
Policy INF SP1 Infrastructure provision and implementation (and the related ADC Community Infrastructure Levy 2020 (CIL))

8. Residents and I also consider that the development proposals under this current application are either demonstrably in direct conflict with and/or fail to demonstrate compliance with government policy as expressed in the NPPF 2019 at Delivering a sufficient supply of homes Paragraphs 59 to 79, Promoting healthy and safe communities Paragraphs 91 to 101, Achieving well-designed places Paragraphs 124 to 132, Meeting the challenge of climate change, flooding and coastal change Paragraphs 148 to 169, Conserving and enhancing the natural environment Paragraphs 170 to 183 and that there are policies in the Framework that protect areas or assets of particular importance which provide clear reasons for refusing the development proposed.
9. There is a presumption in favour of sustainable development at paragraph 11 (d) of the 2019 framework but it is considered that the ALP Policy SP SD1 and the conflict with those Framework policies identified in this case combine to mean that this development should not be considered to be sustainable and the presumption should not, therefore, be applied in this case.
10. Framework Paragraph 12 states:

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.

11. These proposals are in conflict with up to date development plan policies and there are no material considerations to indicate that a departure from these up to date policies is justified.
12. Given the foregoing, Residents have noted with incredulity that the ADC case officer felt able to write to the applicant by e mail dated 6 January 2021 in the following terms:

Dear Daniel,

I believe that I can recommend this application for approval provided that you now agree to instructing your solicitors in respect of the S.106 Agreement as discussed previously. I would like the preparation of this Agreement to have started before my agenda report is finalised (my deadline for the 03/02/21 Meeting is the 15th January) and be in process before the application is heard by the Committee so this may affect whether we can take the application to the 3rd February 2021 Meeting (or whether we instead take to the following Meeting on 03/03/21).

I would also refer you back to my email of 01/12 where I requested that you look into providing further local improvements within the existing ditch network. I have no policy to justify this request but nevertheless believe it is important and could assist your case as this is a highly contentious site with objectors raising drainage issues and I would be asking members to approve an application where there are objections from ADC and WSCC drainage engineers.

I look forward to your reply.

See the e mail at

https://www1.arun.gov.uk/PublicViewer/Authenticated/Main.aspx?user_key_1=P/97/20/PL

13. The statutory determination period for this application expires on 13-01-21 and in our submission there is a very clear legal and policy basis for refusing this application under delegated powers by the due date in accordance with the wishes of residents and we are advised ADC Ward Members and a report and recommendation of approval to the Council's Development Control Committee is not justified.

14. Obviously if we are wrong in this regard Officers will no doubt clearly explain why this is the case in any report that they do make to the development control committee and provide us with the opportunity to comment further on same should the need arise.
15. In the meantime residents, once again, request that Arun District Council takes the necessary and available steps¹ to halt the development of this site until such time as the litany of complaints and concerns regarding the lawfulness of such development are properly investigated and resolved.

¹ See PPG Enforcement and post-permission matters at ID: 17b-001-20140306
<https://www.gov.uk/guidance/ensuring-effective-enforcement>