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[REDACTED]

From: Suzanne Clark [REDACTED]
Sent: 24 October 2021 17:05
To: Michael Eastham <Michael.Eastham@arun.gov.uk>

[REDACTED]

Subject: WA/63/21 - Walberton Parish Council letter
Importance: High

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Dear Mr Eastham

Please find attached a letter from Walberton Parish Council, together with Highways England letter of 17th June 2021, regarding the above planning application.

We await your response.

Kind regards

Suzanne



Suzanne Clark

Chairman – Walberton Parish Council

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WALBERTON PARISH COUNCIL
INCLUDING FONTWELL AND BINSTED
Parish Council Office, The Pavilion, The Street,
Walberton, Arundel, West Sussex, BN18 0PJ



www.walberton-pc.gov.uk

Arun District Council
FAO: Michael Eastham
By email to: michael.eastham@arun.gov.uk

24th October 2021

Dear Mr Eastham

Re: Land East of Tye Lane, Walberton, BN18 0LU – WA/63/21/PL

We write further to our letters of 9, 13 August and 22 September 2021, following publication of your report to Committee.

The Parish Council has sought the advice of Dr Ashley Bowes (Cornerstone Barristers) and we now wish to make the following further observations on this proposal.

You have identified a number of harmful aspects of the scheme, including:

- An adverse effect on the visual amenity and character of Tye Lane, arising from the removal of hedgerow and vegetation.
- The routing of the new emergency access through an area of Public Open Space, including a community orchard and an Local Area of Plan.
- Harm to the Walberton Village Conservation Area.
- Harm to the setting of listed buildings.

It is well established that, where there are “clear planning objections” to a given proposal, it is relevant to consider whether that development can be delivered in a less harmful way, see: **R(Langley Park School for Girls Governing Body) v Bromley LBC** [2010] 1 P & CR 10 at [45]-[46].

Here, the use of the consented Yapton Lane access (as part of WA/44/17/OUT) would deliver the same benefits of the development without the same level of harm. Whilst the applicant has sought to cast doubt on the deliverability of the Yapton Lane access, National Highways has confirmed in writing that whatever the ultimate alignment of the A27 bypass, it will ensure access to Avisford Grange is secured (see enclosed letter dated 17 June 2021). The presence of the consented Yapton Lane access is therefore an important material consideration which needs to be drawn to Members’ attention.

Separately, we note this application only covers, within its red line, the access and estate road connection. It excludes the housing development area itself, apparently seeking to rely upon the approved permission WA/44/17/OUT and WA/95/18/RES. That would not however be permissible.

If the instant application were to be permitted and implemented, the subsequent development (and potentially that already built) would be unauthorised. That is because the original permission (WA/44/17/OUT and WA/95/18/RES) could no longer be completed in accordance with the approved plans in its entirety, see for example:

- Development would take place in an area shown as “green space” on the approved parameters plan.¹
- A large estate access road would be delivered where the approved plans show “amenity grass seeding”.²
- The re-enforced hedgerow or soft landscaping shown on the approved landscape master plan would not be provided.³

In **Hillside Parks Ltd v Snowdonia National Parks Authority** [2020] EWCA Civ 1440 at [67], Singh LJ approved the observations of Hickinbottom J in **Singh v Secretary of State for Communities and Local Government** [2010] EWHC 1621 (Admin) at [19]-[20] as follows:

“Hickinbottom J was of the view that, reflecting the holistic structure of the planning regime, for a development to be lawful it must be carried out “fully in accordance with any final permission under which it is done” (emphasis in original). He continued:

‘That means that if a development for which permission has been granted cannot be completed because of the impact of other operations under another permission, that subsequent development as a whole will be unlawful.’ ”

At [68], Singh LJ left open the possibility that in such cases, development which has already taken place could be rendered unauthorised and liable to enforcement action.

We note this appears not to have been appreciated within the report to Committee. That oversight has led to the false assumption that this proposal would benefit the local economy “by bringing additional customers to the village centre shops and services”. That is wrong because, as a consequence of the settled legal position in **Hillside**, the housing development could not be completed and occupied lawfully if this proposal were ever to be implemented.

As a consequence of these omissions, we would invite you to withdraw the item from the forthcoming Committee.

If these errors of law are not corrected before the Committee hearing and permission were to be granted in spite of our having drawn it to your attention, the Parish Council reserves the right to pursue judicial review proceedings to secure the quashing of the permission.

Yours sincerely,

Unsigned – sent by email

Suzanne Clark - Chairman

Encs.

NH letter 17 June 2021

¹ 2507-A-1100-A – Parameter Plan.

² CSA/3823/107 Rev E – Public Open Space Landscape Proposal Sheet.

³ CSA/3823/111 Rev F – Landscape Masterplan.

To whom it may concern

[REDACTED]
Highways England
Bridge House
1 Walnut Tree Close
Guildford GU1 4LZ

17th June 2021

A27 Arundel Bypass Scheme – Avisford Grange

In October 2020 Highways England Company Limited (Highways England) announced the Preferred Route for the A27 Arundel Bypass Scheme. The Preferred Route included land that forms part of the access road into Avisford Grange.

Following the Preferred Route Announcement, Highways England has been undertaking further surveys and investigations in order to develop the design of the scheme in more detail. In addition, Highways England has been working with Linden Wates (Walberton) LLP, the owners of Avisford Grange, to reduce the impacts of the A27 Arundel Bypass Scheme on Avisford Grange.

Whilst the final alignment of the A27 Arundel Bypass Scheme will not be fixed until after the statutory consultation, and will remain subject to the grant of development consent by the Secretary of State for Transport, Highways England hereby confirms that the A27 Arundel Bypass Scheme will be designed so as to ensure that access to Avisford Grange along the existing access road at Yapton Lane will be permanently retained.

In the event that Highways England needs to carry out any construction or mitigation works along the access road from Yapton Lane to Avisford Grange, Highways England hereby confirms that an alternative access will be provided to Avisford Grange for the duration of the construction or mitigation works.

The commitments set out above will not apply in the event that an alternative permanent access road from Tye Lane to Avisford Grange is consented and constructed.

Highways England trusts that this confirmation gives you sufficient certainty to enable you to proceed with your purchase of a property at Avisford Grange.

Yours faithfully

[REDACTED]