

Recommendation Report for Removal of a Planning Obligation

REF NO: Y/143/20/PO

LOCATION: Bohnams Field
Main Road
Yapton
BN18 0DX

PROPOSAL: Application to Modify Planning Obligation dated 30/8/17 linked to Y/1/17/OUT by removal of the 'Play Area' and 'Play Area Specification' sections of the interpretation section and deletion of Schedule1, clause 3 'Play Areas'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	3.2 hectares.
TOPOGRAPHY	Predominantly flat, but rises gently in a north/north-easterly direction from Yapton Road.
TREES	There are relatively few trees of moderate to high value, the vast majority of which are confined to the site perimeter and outside of the site. An off-site Oak tree overhanging parking spaces 9 & 10 is subject to a Tree Preservation Order (TPO/Y/1/20). However, none are affected by this application.
BOUNDARY TREATMENT	The north and west boundaries are defined by established hedgerow and mature trees. Where it meets Main Road, the western boundary also lies adjacent to an existing row of cottages. Several mature trees line the eastern boundary also, together with a flint wall which forms the boundary of the Main Road Conservation Area. Beyond the flint wall lies a row of properties along North End Road. To the south, the boundary is formed of a combination of fencing and low stone walls at the point where it runs along Main Road. Bonhams Farm complex lies to the south of the site, but north of Main Road, and is contained by a flint wall that runs along the application boundary here.
SITE CHARACTERISTICS	An agricultural field formerly used for grazing, immediately abutting the Main Road Conservation Area. The site wraps around Bonhams House, Elms Barn and The Byre but the properties do not form part of the site.
CHARACTER OF LOCALITY	The site is in the settlement boundary of Yapton village. To the east on the corner of North End Road, there is the former Olive Branch public house which has been converted to residential use. Properties on the west site of North End Lane back on to the site. The site is set in an area that has an open character with a mix of large properties in large plots and smaller terraced properties located along Main Road.

Residential development is located along the length of North End Road to the east, and along either side of Main Road to the south and west of the site. An established hedgerow runs north to south across the site and towards the eastern end.

Main Road serves the village and runs south of the site. The wider village is rural in character benefiting GP surgeries and pharmacy, two churches, a village hall and playing fields, Yapton Church of England Primary School, a pub and a small selection of shops (including post office and local convenience store). Barnham railway station is 2 miles west and a regular bus service serves the village.

The site has houses backing onto it along the south eastern, southern and western boundaries.

RELEVANT SITE HISTORY

Y/99/20/PL	Variation of conditions following Y/1/17/OUT to reword conditions 12, 14 & 16 as set out in the application covering letter in order to allow for the proposed access works to be implemented separately to the rest of the planning permission.	App Cond with S106 08-01-21
Y/63/19/RES	Approval of reserved matters following the grant of Y/1/17/OUT for 56 No. dwellings with associated open space & creation of new access. This application affects the character & appearance of the Yapton (Main Road) Conservation Area & affects the setting of listed buildings.	ApproveConditionally 21-02-20
Y/1/17/OUT	Outline Application with some matters reserved for the erection of 56 No. dwellings with associated open space and creation of new access. This application is a Departure from the Development plan & affects the character & appearance of the Yapton (Main Road) Conservation Area.	App Cond with S106 07-12-17

The site benefits from extant permission (Y/1/17/OUT and Y/63/19/RES) for 56 dwellings with access from Main Road. The applicant has already discharged some of the conditions on Y/1/17/OUT and the outstanding pre-commencement conditions are 8 (tree protection), 12 (surface water drainage scheme) and 14 (surface water maintenance manual).

Y/99/20/PL was approved in January 2021 and enabled the applicant to implement the access without first having to agree the surface water or foul water drainage strategies for the whole site.

REPRESENTATIONS

Yapton Parish Council raise no objection.

One objection stating "Planning permission was agreed on the basis that a playground would be available for children. This should remain so".

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and considered in the report's conclusions.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

No response from ADC Landscape Officer. However, previously (22/10/20) stated in response to an internal email request concerning the S.106 provisions that: "I note also that the play indicated adjacent to the orchard is purely an area of unequipped open space with play area contribution going offsite as previously 106 agreed."

COMMENTS ON CONSULTATION RESPONSES:

Noted.

POLICY CONTEXT

Designations applicable to site:

Within the Built Up Area Boundary;
 Part within Conservation Area (the very south eastern corner);
 Part adjacent to Conservation Area;
 Area of Special Control of Adverts;
 Tree Preservation Order ref TPO/Y/1/20;
 Adjacent to three Grade II Listed Buildings;
 Lidsey Drainage Catchment Area;
 CIL Zone 2;
 Current & Future Flood Zone 1;
 Part within 1:1000 Surface Water Flooding Area (the very south eastern corner); and
 Grades 1/2 Agricultural Land.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

HWBSP1	HWB SP1 Health and Wellbeing
OSRDM1	Protection of open space,outdoor sport,comm& rec facilities

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD12 Open Space, Playing Pitches & Indoor & Built Sports Facilities

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.

There are no relevant Neighbourhood Plan policies.

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 proposal is considered to comply with relevant Development Plan policies in that the removal of the play area requirement does not result in an under provision of children's play facilities with a contribution going instead to the Yapton Parish play area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

The Section 106 Agreement (s106) associated with Y/1/17/OUT required both the provision of an on-site Local Area of Play (LAP) and a financial contribution of £1600 per dwelling (index linked) towards the Yapton Parish play area (Yapton's King George V Playing Field and Play Area).

It has been established that this dual approach was an error as Yapton Parish Council had stated in response to YT/1/17/OUT that they did not want an equipped play area delivered on site but instead a naturalistic swathe of open space. As a result, the requirement for a contribution was built into the s106 but the play area requirement was not removed. The scheme approved by the Reserved Matters application (Y/63/19/RES) comprises a natural area of open space within a Community Orchard. The Orchard was also something requested by the Parish Council.

It should also be noted that the Dandara site to the north east (refs Y/721/20/RES & Y/72/20/RES) will be

providing a LAP and a LEAP. It is intended that there will be pedestrian access from the Bonhams site into the Dandara site thus allowing new residents to easily walk to nearby play areas.

The outline permission Y/1/17/OUT was determined in accordance with the policies of the previous Local Plan including the Councils "Open Space & Recreation Standards - October 2000" which has now been replaced by the "Arun District Council Public Open Space, Playing Pitches and Built Facilities January 2020 SPD". It would not be appropriate to re-determine the play space requirements based on the new planning guidance. However, it is clear that the requirement of the new SPD would be for 678m² (0.0678ha) of play in other words a single LAP.

Whilst a site of this size should have its open space delivered on site, the Local Planning Authority is able to decide on an alternative approach and in this case it is clear that this was done to reflect the wishes of the community. Unfortunately the on-site play area requirement was left in the Agreement in error. As such, it is not considered that any objection should be raised to this application.

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 application is accompanied by a Deed of Variation to the original Agreement associated with Y/1/17/OUT. The Deed of Variation was completed on 11/02/21.

RECOMMENDATION

APPROVE