

Recommendation Report for Planning Permission

REF NO: Y/19/21/PL

LOCATION: Clays Farm
North End Road
Yapton
BN18 0DT

PROPOSAL: Removal of planning condition 17 imposed under Y/62/18/OUT relating to no occupation of more than 16 dwellings prior to the proposed improvement works at the junction of the A27 and Yapton Lane have been completed and open to the public.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	At the time of application Y/83/19/OUT, it was observed that the site was a grassed paddock, overgrown to the edges with two timber pitched roof buildings - one a double barn (around 1.5 storeys high) and the other, a single storey stable building. There is single width access to North End Road.
CHARACTER OF LOCALITY	The land to the west is arable farmland. To the east are two large residential dwellings ("The Steddles" and "St Mary's Vicarage"). The Steddles is the closest of these and is part single, part two storey but there is an extant permission to redevelop this site with 10 homes (Y/121/19/PL). To the south of the site lies land to the north of the Yapton Primary School which is allocated in the Yapton Neighbourhood Development Plan for residential development and benefits from outline and reserved matters permission for 38 dwellings (Y/88/18/OUT & Y/71/20/RES). To the north lies land known as "Land at Street Buildings, North End Road" benefits from outline and reserved matters permission for 45 dwellings (Y/49/17/OUT & Y/146/20/RES). Yapton has two GP surgeries, a pharmacy, two churches, a village hall and playing fields, a primary school, a small selection of shops and a regular bus service. Barnham railway station is 2 miles west (as the crow flies).

RELEVANT SITE HISTORY

Y/18/21/RES	Approval of reserved matters following Y/62/18/OUT for 33 No. residential units, access, landscaping & associated works. This site is in CIL Zone 3 & is CIL
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Liabie as new dwellings.

Y/83/19/OUT	Outline application with some matters reserved for the erection of 33 No. dwellings, access roads, landscaping & associated works (resubmission following Y/62/18/OUT). This application is a Departure from the Development Plan.	App Cond with S106 31-03-20
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Y/62/18/OUT	Outline application with some matters reserved (appearance, landscaping, layout & scale) for 33 No. residential dwellings, access, landscaping & associated works. This application is a Departure from the Development Plan.	Refused 27-06-19
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Appeal: Allowed+Conditions
25-02-20

Y/62/18/OUT was allowed on appeal about a month before the resubmission Y/83/19/OUT was approved by the Council. A reserved matters submission has recently been lodged further to Y/62/18/OUT.

REPRESENTATIONS

Yapton Parish Council object with the following comments:

- YPC have always expressed concerns relating to increased traffic generation on the local road network with this application further compounding the situation;
- There have been no new road improvements in the area since this application's appeal decision; and
- YPC therefore see no justification in removing a condition that will aid the improvement of the local traffic network as requested by HE.

One objection raising concerns regarding surface water drainage and the increase in traffic within the village resulting in greater air pollution for residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

The YPC comments are noted and these issues will be considered within the conclusions. The resident's concerns are not related to the subject of the application and so are not considered further.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND - Objection. Their response is set out in full on the Council's website and summarised below:

- The right turn lane on the A27 to Yapton Lane is already stressed and this was robustly demonstrated at a recent Yapton appeal concerning Y/80/16/OUT where photographic evidence was provided showing sporadic queuing from the right turn lane out into the eastbound offside lane of the A27 dual carriageway;
- This type of queuing is exceptionally hazardous to traffic on the main alignment and significantly

increases the potential risk for rear end shunts, side swipe and sudden lane change / loss of control type accidents;

- Increasing the number of right turning vehicles at this junction will both increase the frequency and length of queuing back out onto the main carriageway with resultant safety consequences;
- There have been 4 Personnel Injury Accidents (PIA's) at the junction in the 5-year period to the end of 2019 all of which were recorded as Serious;
- Highways England has sought to allow as much housing development to come forward in the Yapton area as is deemed tolerable insofar as the safe operation of the right turn lane is concerned ahead of its agreed safety improvement;
- Housing numbers have been fairly and reasonably allocated amongst the consented developments including at Clays Farm;
- There are no reasonable or justifiable reasons presented in the supporting TA to suggest why this should be otherwise and the traffic modelling only concerns itself with the average max queue length throughout the peak periods and so does not account for the maximum queue length and hence frequency of sporadic queuing out onto the main line;
- Furthermore, no modelling files have been provided for checking although this is considered irrelevant when set against the severe safety impacts of adding additional turning movements at the right turn lane;
- Whilst Highways England has made a Preferred Route Announcement for the Arundel Bypass, there is no guarantee that it will be constructed and indeed this is the second such attempt within the recent past, the first having failed;
- Even with a smooth uninterrupted programme through the DCO process it is highly unlikely that the bypass will commence before 2024 and likely later;
- Accordingly, Highways England considers that the safety improvement to the A27 Yapton Lane right turn will be required ahead of the bypass even though the bypass works may render the improvements unnecessary;
- The purpose of the condition was to ensure there were no further intensifications of use of the junction above what was considered a tolerable level and to give each developer the opportunity to build cash from housing sales prior to committing to the works;
- There is no reason to amend this and it would seem reasonable that the respective developers should work together collaboratively to bring forward the required safety works and therefore proportionately share the cost of this necessary safety mitigation;
- Highways England considers that removal of condition 17 of Y/62/18/OUT would result in a severe impact on the safe and efficient operation of the SRN (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and the NPPF, particularly paragraphs 108 and 109); and
- If the council wishes to approve the removal of Condition 17 it should advise Highways England in writing whereupon this matter will be referred to the SoS for Transport.

COMMENTS ON CONSULTATION RESPONSES:

Highways England have confirmed that they are prepared to defend this refusal at appeal if necessary.

POLICY CONTEXT

Designations applicable to site:

Outside of the Built Up Area Boundary;
Agricultural Land (Grade 2);
Flood Zone 1;
CIL Zone 3;
Lidsey Treatment Catchment Area; and
Area of Special Control of Adverts.

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

TSP1	T SP1 Transport and Development
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PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

The relevant policies of the Yapton Neighbourhood Development Plan (YNDP) have been considered within this report. Yapton are currently working on a revised YNDP and have recently completed a regulation 14 consultation. However, it is considered that the emerging Plan can be attributed only low weight at this time.

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 conflict with the development plan policies in that it fails to account for the required safety improvements to the existing road network.

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**BACKGROUND TO THE CONDITION:**

The condition was imposed on this proposal and others in the Yapton and Walberton areas to limit the number of new dwellings being occupied prior to the approved A27/Yapton Lane junction improvement works being completed. The restriction on occupation for all developments was 50% and so affected 16

of the 33 dwellings at Clays Farm.

Separately, a requirement was placed via s106 agreement on the developers of Tye Lane, Walberton (ref WA/44/17/OUT) and Stakers Farm, Yapton (Y/44/17/OUT) to enter into a s278 Agreement in order to carry out the junction improvement works prior to the occupation of a set number of dwellings (90 for Tye Lane/50 for Stakers Farm).

It is understood that development had commenced at Tye Lane but has recently stopped due to conflict with the proposed Arundel bypass route. Development has not yet commenced on Stakers Farm but reserved matters permission has been granted (Y/72/20/RES). Until such time as these developments are commenced/reach the target number of occupations and the junction improvements are thus completed, the original justification for the conditions remains.

JUSTIFICATION:

The applicant states that the development could be fully occupied without the need to improve the A27/Yapton Lane junction on the basis that:

- Junction modelling indicates that development at Clays Farm will have an imperceptible impact on the operation of the A27/Yapton Lane junction.
- In the local area, 211 dwellings are permitted to be occupied before the A27/Yapton Lane junction improvement is required.

The applicant states the uncertainties around the full delivery of these 211 units coupled with the imperceptible impact that would be generated by the addition of 16 units from Clays Farm would mean it would be wholly unreasonable from a highways perspective to retain the condition.

The applicant considers the highway improvements are not required due to the proposed bypass scheme. The applicant states that condition 17 is not in accordance with the condition tests set out at paragraph 55 of the NPPF.

The applicant argues that the proposal to bring all 33 units at Clays Farm forward as affordable dwellings should be weighed against the imperceptible highway impact on the operation of the junction.

POLICY ASSESSMENT:

Arun Local Plan (ALP) policy T SP1 states that development should make provision for safe access to the highway network through improvements to the existing road network. In addition, the NPPF states at para 108 that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, must be effectively mitigated to an acceptable degree. Para 109 then states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Highways England refer to the Department for Transport (DfT) Circular 02/2013 "The Strategic Road Network and the delivery of Sustainable Development". Para 9 states that development proposals must be capable of being accommodated within the existing capacity of a strategic road network junction or that development does not increase demand for use of a section that is already operating at over-capacity levels. Para 10 states the Highways Agency's prime consideration will be the continued safe operation of its network.

The applicants justification for removal of the condition is noted however, this is robustly challenged by

the comments of Highways England as per their consultation response summarised elsewhere.

It is material that the condition was imposed by an Appeal Inspector as a result of the successful appeal of Y/62/18/OUT. Had it been considered that the condition did not meet the NPPF tests, then the Inspector would not have deemed it necessary to impose it.

It is accepted there is a clear demand for affordable housing in the district but equally there is a clear demand for housing in general (noting that ADC can only demonstrate a 3.3-year Housing Land Supply). These arguments are not considered to outweigh the objections of Highways England as it is clear that there is an existing safety concern which has properly been evidenced. If this application were to be granted on the basis of the need for new housing (notwithstanding the need for any approval to be ratified by the SoS for Transport) then it is highly likely that similar applications would come forward which the Council would find hard to resist.

It is therefore considered that the proposed removal of the condition is in conflict with ALP policy T SP1, with the NPPF and with the guidance in the DfT circular.

RECOMMENDATION:

It is therefore recommended that this application be refused for the following reason.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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.

RECOMMENDATION

REFUSE

- 1 The removal of condition 17 of Y/62/18/OUT would result in a severe impact on the safe and efficient operation of the strategic road network and would be in conflict with the National

Planning policy Framework (paras 108 & 109), DfT Circular 02/2013 (paras 9 & 10) and policy T SP1 of the Arun Local Plan.

- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.