

Recommendation Report for Planning Permission

**REF NO:** Y/73/20/PL

**LOCATION:** Land North of Yapton C of E Primary School  
North End Road  
Yapton

**PROPOSAL:** Variation of condition 3-plans condition following the approval of Y/88/18/OUT to replace the Proposed Access Arrangement plan & remove the Swept Path Analysis & Sketch Site Layout. This application is in CIL Zone 3 (Zero Rated) as 'other development'.

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| <b>SITE AND SURROUNDINGS</b> |
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| DESCRIPTION OF APPLICATION | The purpose of this application is to make minor amendments to the approved outline planning permission. These amendments are described in detail in the application covering letter but in short, the applicant requests that condition 3 of Y/88/18/OUT be amended with the access drawing replaced by the version that has achieved S.278 approval. The applicant requests removal of the refuse vehicle swept path analysis and the sketch site layout drawings |
| SITE AREA                  | 1.64 hectares.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| <b>RELEVANT SITE HISTORY</b> |
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| Y/74/20/PL  | Variation of conditions 3 (plans condition) to replace 'Proposed Arrangement Drawing', remove 'Swept Path Analysis' & amendment to referencing/wording of the Location Plan currently referred to as 'drawing 6468-04 REV B as there is no revision B & 24 (range of dwellings) to include the wording 'or as otherwise agreed in writing by the Local Planning Authority following Y/44/17/OUT. This application is in CIL Zone 3 (Zero Rated: as other development. |
| Y/72/20/RES | Approval of Reserved Matters following Outline Approval Y/44/17/OUT for the erection of 70 no. dwellings.                                                                                                                                                                                                                                                                                                                                                             |
| Y/71/20/RES | Approval of reserved matters following outline consent Y/88/18/OUT for the erection of 38 No. dwellings. This application affects Public Rights of Way.                                                                                                                                                                                                                                                                                                               |

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| Y/17/20/PL  | Construction of a new access to serve residential development This application may affect a Public Right of Way.                                                                                                                                                                                                                                                                      | ApproveConditionally<br>24-04-20 |
| Y/88/18/OUT | Outline application with some matters reserved for the erection of 38 No. dwellings. This application affects a Public Right of Way.                                                                                                                                                                                                                                                  | App Cond with S106<br>26-11-19   |
| Y/44/17/OUT | Outline Planning Application for 70 No. residential dwellings including 30% affordable, public open space & associated landscaping. All matters to be reserved apart from Access . This application is a Departure from the Development plan. This application affects the character & appearance of Main Road/Church Road Yapton Conservation Area & the setting of Listed Buildings | App Cond with S106<br>14-12-18   |

This site is to be developed as one site together with that approved by Y/44/17/OUT. Reserved Matters are currently in for determination on both of these sites.

## REPRESENTATIONS

"No objection"

## COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

## CONSULTATIONS

## CONSULTATION RESPONSES RECEIVED:

HIGHWAYS ENGLAND - Express concern that the condition recommended by them at Outline stage were not included in the recommendation. The condition in question would have prevented any more than 19 dwellings from being occupied until the A27/Yapton Lane junction improvement had been completed. State that the non-inclusion of this condition would have required approval by the Secretary of State for Transport and that therefore the outline decision was ultra vires.

WSCC HIGHWAYS - No objection with the following comments:

- A stand alone access was approved under Y/17/20/PL which included approval of drawing YAP-S278-01 Rev J. This stand alone access was submitted to allow the access to be constructed during school holidays; and
- Considering that the access arrangements have already been approved as per the supplied drawing under Y/17/20 the LHA does not wish to raise an objection to the variation of condition 3 application.

**COMMENTS ON CONSULTATION RESPONSES:**

HIGHWAYS ENGLAND - It is acknowledged that the Local Planning Authority did not notify the Secretary of State of its intention to grant permission without the requested condition. The Council has obtained legal advice which confirms the outline permission is valid. The Local Planning Authority is also of the opinion that the situation cannot be rectified by imposing the condition on this planning permission, particularly as the officer report for Y/88/18/OUT discussed the proposed condition and concluded that it was not necessary in accordance with paragraph 55 of the NPPF.

**POLICY CONTEXT**

Designations applicable to site:

Within the Built Up Area Boundary;  
Lidsey Wastewater Treatment Catchment Area; and  
Special Control of Adverts.

**DEVELOPMENT PLAN POLICIES**

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

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|------|------------------------------------------|
| DDM1 | D DM1 Aspects of form and design quality |
| TSP1 | T SP1 Transport and Development          |

**PLANNING POLICY GUIDANCE:**

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|------|-------------------------------------|
| 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 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.

There are no relevant Yapton Neighbourhood Plan policies. It is noted that Yapton are working on a review of this Plan but this has not yet reached the regulation 14 stage at which it would be necessary for the Local Planning Authority to consider it.

**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 complies with relevant Development Plan policies in that the site lies within the built up area boundary and the changes to the condition will not result in any adverse impact upon highway safety.

## OTHER MATERIAL CONSIDERATIONS

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

## CONCLUSIONS

### PRINCIPLE:

The site benefits from outline permission as granted by Y/88/18/OUT in November 2019. This application approved the principle of development and the access arrangements (which involve taking access from North End Road). It is acknowledged the access benefits from a standalone planning permission Y/17/20/PL which was approved in accordance with the approved S.278 access drawing and it is this drawing that will be implemented.

### HIGHWAYS:

Arun Local Plan (ALP) policy T SP1 seeks to ensure development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport. In respect of highway safety, it states: "The Council will support transport and development which: explains how the development has been designed to: (i) accommodate the efficient delivery of goods and supplies; (ii) give priority to pedestrian and cycle movements and have access to high quality public transport facilities; (iii) create safe and secure layouts for traffic, cyclists and pedestrians whilst avoiding street clutter."

Para 108 of the NPPF states: "In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Regard should be had to para 109 which states: "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."

WSCC Highways have raise no objections to the changes. The access configuration has been through the s.278 approval process and separately approved by Y/17/20/PL. It is not considered that anything has changed on the ground or in policy terms to justify taking a different decision or to require any additional highway improvements. It is considered the proposed access remains in accordance with the relevant development plan policies and in respect with the guidance with the NPPF on highway safety.

In respect of the swept path drawing, this was based on the original access drawing and so would need to be changed. However, it is not necessary to continue to refer to this as it clearly demonstrated access into the site by a refuse vehicle and this situation has not been altered by the s.278 approval process. Therefore, its omission is not detrimental to highway safety. The sketch layout plan was only included in condition 3 of Y/88/18/OUT insofar as it showed the access arrangements but it is accepted that this was not necessary as these were shown on the other access drawing and therefore, there is no objection to its deletion.

As such, there is no conflict with ALP policy T SP1 or with the NPPF.

### OTHER MATTERS:

It is not considered that the amendments to the planning condition will result in any new impacts on the character of the area, on residential amenity, in respect of drainage, biodiversity, trees or on any nearby heritage assets.

## CONDITIONS:

As this is a variation of condition application, local planning authorities are also allowed to amend other conditions. As the original permission has not yet been implemented (albeit that a reserved matters application has been submitted), conditions 1 & 2 which deal with the time limits for implementation should be amended to make it clear to the applicant that the time periods for commencement continue to be from the date of the decision of Y/88/18/OUT.

## SUMMARY:

It is therefore recommended that planning permission be granted in accordance with the following updated conditions.

### 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 Section 106 Agreement completed in accordance with the grant of permission for application Y/88/18/OUT includes a clause that enables it to also apply to subsequent variation applications such as this.

### CIL DETAILS

This section 73 application is not CIL Liable as it does not result in any new floorspace and the previous application was granted with a Section 106 Legal Agreement which included various developer contributions.

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| <b>RECOMMENDATION</b> |
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**APPROVE CONDITIONALLY**

- 1 The permission hereby granted is an outline permission under s92 of the Town and Country Planning Act 1990 (as amended) and an application for the approval of the Local Planning Authority to the following matters must be made not later than the expiration of 3 years beginning with the date of the planning permission under Y/88/18/OUT (26 November 2019):
  - (a) Layout;
  - (b) Scale;
  - (c) Appearance;
  - (e) Landscaping.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be begun either before the expiration of 3 years from the date of the planning permission under Y/88/18/OUT (26 November 2019) or before expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
 

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 3 The development hereby approved shall be carried out in accordance with the following approved plans:
  - Drawing 04 Rev A "Location Plan"; and
  - Drawing YAP-S278-01 Rev J "S278 General Arrangement and Construction Makeup drawing".

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1 and T SP1 of the Arun Local Plan.
- 4 **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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 5 **INFORMATIVE:** All of the conditions imposed on Y/88/18/OUT shall remain in force except for conditions 1, 2 & 3 which are replaced by the conditions 1-3 above.
- 6 **INFORMATIVE:** It is noted that this permission will be granted pursuant to Section 73 of the Town and Country Planning Act 1990 and the original permission was granted before a Community Infrastructure Levy (CIL) Charging Schedule took effect. Therefore, in accordance with the CIL Regulations 2010 (as amended) there will be no CIL charge on this permission as there is no net increase in floorspace between the original permission and the Section 73 permission.