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Sent: 03 February 2026 11:44
To: Planning Scanning
Subject: FW: Representation – Objection: Application Y/80/25/S73 - Land west of Bilsham Road, Yapton

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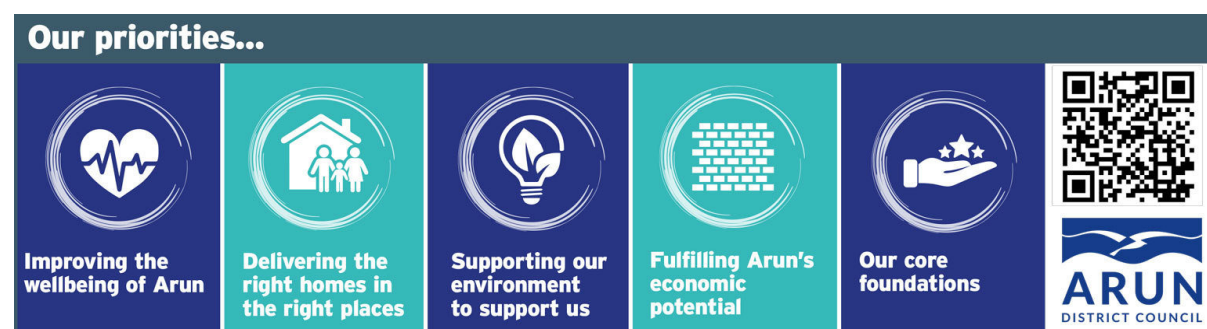
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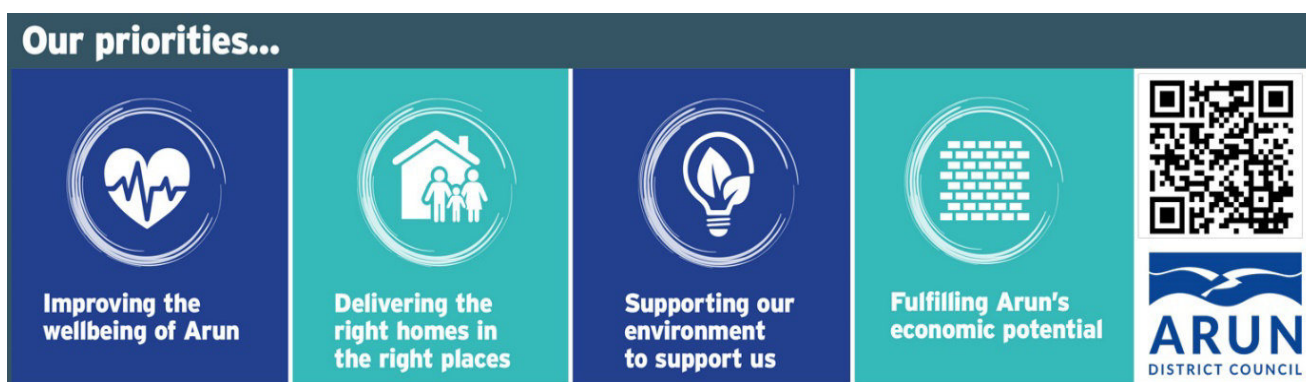
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From: andrewknknight [REDACTED]
Sent: 01 February 2026 12:11
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Subject: Representation – Objection: Application Y/80/25/S73 - Land west of Bilsham Road, Yapton

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Representation – Objection

Application Y/80/25/S73
Land west of Bilsham Road, Yapton

Inappropriate use of Section 73, fundamental change from appeal-approved scheme, and procedural unfairness

1. Summary

This representation objects to application **Y/80/25/S73** on the grounds that it constitutes an inappropriate and unlawful use of Section 73 of the Town and Country Planning Act 1990. The proposal seeks to substitute an entirely different development for that approved on appeal under **Y/52/23/PL**, resulting in a scheme that is fundamentally different from the appeal-approved development.

In addition, the manner in which the proposal has been brought forward raises serious concerns regarding procedural fairness, public scrutiny, and confidence in the planning process.

2. The appeal permission was explicitly design-specific

The appeal decision dated **24 January 2025** granted planning permission for a specific **BoKlok** scheme, following detailed assessment of:

- character and appearance,
- the relationship between the development and the surrounding countryside, and
- the experience of entering and leaving Yapton along Bilsham Road, identified by the Inspector as a key route and gateway.

The Inspector explicitly accepted the modern, cohesive and uniform design approach of the BoKlok scheme, concluding that that scheme, **as laid out and detailed**, would not appear incongruous or harmful to the character of the area.

The appeal permission is therefore not a generic consent for residential development, but one that is intrinsically linked to the approved layout, height strategy, boundary treatments and landscape-led edge condition secured by **Condition 2**.

3. The Section 73 application proposes wholesale replacement, not variation

The Section 73 application seeks to replace the entire suite of appeal-approved drawings with a full **Redrow** scheme, including:

- a new site layout (Drawing **2138_1100B**),
- a different spatial structure and street hierarchy,
- revised boundary treatments,
- revised landscape and drainage strategies, and
- a fundamentally different architectural and placemaking approach.

The applicant's own covering letter confirms that this is a **complete substitution** of the appeal-approved scheme, rather than a refinement or adjustment.

Such wholesale replacement goes well beyond what can reasonably be described as a variation of conditions.

4. Fundamental differences from the appeal-approved development

A direct comparison between the appeal-approved BoKlok drawings and the submitted Redrow drawings demonstrates material and fundamental differences, including:

(a) Settlement edge and Bilsham Road frontage

The BoKlok scheme employed a deep, landscape-led, permeable edge along Bilsham Road, with development filtered through green infrastructure. The Redrow layout introduces a continuous built frontage, significantly reducing the landscape buffer and creating a much harder settlement edge.

(b) Southern gateway character

The Inspector’s acceptance of the appeal scheme relied on the southern gateway to Yapton being open, landscape-led and transitional. The Redrow layout encloses this area with development on multiple sides, materially altering the gateway experience assessed at appeal.

(c) Spatial structure and enclosure

The BoKlok layout relied on simplicity, repetition and openness.

The Redrow scheme introduces a suburban perimeter-block structure, tighter spacing, and increased enclosure, fundamentally altering spatial relationships across the site.

(d) Boundary treatments

The appeal-approved boundary strategy relied on low-key, rural treatments (post-and-rail fencing, hedgerows, permeable boundaries) to soften the settlement edge.

The Section 73 application seeks to replace this strategy, materially changing how the development meets the countryside.

While the Redrow Storey Heights Plan identifies predominantly two-storey development, storey count alone does not determine visual impact. The appeal decision relied on the **combined effect** of layout, height distribution, openness and boundary treatment — all of which are now changed.

5. Conflict with established Section 73 case law (Cornwall principle)

Established case law (including decisions arising from **Cornwall Council**) confirms that Section 73 cannot lawfully be used where the resulting development would be fundamentally different from that originally approved.

Inspectors have repeatedly found that:

- wholesale substitution of approved plans can exceed the scope of Section 73,
- reliance on conclusions reached about the original scheme is unsafe, and
- such proposals require a fresh full planning application.

The present application exhibits precisely those characteristics.

In these circumstances, it is not only the mechanism of Section 73 that is problematic, but the reliance on conclusions reached at appeal. Those conclusions were explicitly tied to the BoKlok scheme as laid out and assessed. Given the fundamental differences now proposed, reliance on the appeal decision to justify the current scheme would be unsafe.

6. Procedural fairness, drainage, and handling of the full application

Serious concerns also arise regarding procedural fairness and transparency, particularly in relation to surface water drainage and the handling of the parallel full planning application.

The applicant previously submitted a full planning application (**Y/32/25/PL**) for the Redrow scheme, thereby accepting that the proposal constituted a materially different development requiring full assessment. That application remains undetermined, with unresolved drainage issues.

The subsequent promotion of the same scheme through a Section 73 application therefore represents a clear change in procedural approach, despite the underlying design remaining unchanged.

Correspondence between the applicant and the Council confirms that:

- further work on surface water drainage was being undertaken “to support the S73”;
- the applicant explicitly queried whether updated surface water drainage requirements applied to the Section 73 application; and
- the applicant asked whether drainage could instead be addressed through discharge of conditions.

Most significantly, the applicant stated in correspondence that the full planning application (**Y/32/25/PL**) was being held “**on hold pending the outcome**” of the Section 73 application. That statement was clear and unambiguous in its wording and meaning.

Officers subsequently corrected this position, making clear that the planning process does not operate in that way and that the full application would proceed to determination. Following that clarification, the applicant immediately retracted their earlier statement, describing it as a “**misunderstanding**”.

However, given the clarity of the original wording, it is difficult to reconcile the later characterisation of this position as a misunderstanding. The sequence of correspondence indicates that the Section 73 application was being treated by the applicant as a mechanism capable of influencing, delaying or pre-empting the determination of the full application, rather than as a limited variation of an already approved scheme.

Although officers have correctly confirmed that the Section 73 must be determined against current policy, the fact that these questions were raised — and that the full application was initially described as being on hold — reinforces the concern that this fundamentally different scheme is being advanced through a procedurally narrower route, with reduced opportunity for holistic assessment, transparency and public scrutiny.

This directly engages the procedural fairness concerns identified by Inspectors in previous refusals of over-reaching Section 73 applications.

7. Conclusion

For the reasons set out above, the proposal before the Council is not a lawful or appropriate use of Section 73. The development now proposed is fundamentally different from that approved on appeal and cannot reasonably rely on conclusions reached about the BoKlok scheme.

The application should therefore be refused, or alternatively the applicant should be directed to pursue the proposal through a full planning application, ensuring proper assessment, public consultation and transparency.