

PLANNING STATEMENT

1.Introduction

This Planning Statement is produced by Land Planning Associates, on behalf of Nick Edgeley (the applicant), in support of an application under s106A of the Town and Country Planning Act 1990 (as amended) for removal of a s106 planning obligation at Sheepcroft, Broxmead Lane, Bolney, Haywards Heath, West Sussex, RH17 5RJ.

2. The Proposal

The applicant seeks the consent of Mid Sussex District Council to discharge the requirements of a s106 planning obligation dating from 31st July 2000 and attached to planning permission ref. BK/039/99.

The application is submitted under s106A of the Town and Country Planning Act 1990 (as amended), which states that an application may be made to discharge a s106 obligation at any time after the expiry of the relevant period (5 years in this instance).

S106A of the TCPA 1990 (as amended) states that in the deliberation of an application to discharge the requirements of the obligation, that the planning authority must determine:

- a) *That the planning obligation shall continue to have effect without modification*
- Or
- b) *If the obligation no longer serves a useful purpose, that it shall be discharged*

Section 70(2) of the TCPA 1990 requires that:

In dealing with an application for planning permission or permission in principle the authority shall have regard to—

- (a)the provisions of the development plan, so far as material to the application,*
- (aza)a post-examination draft neighbourhood development plan, so far as material to the application,]*
- (aa)any considerations relating to the use of the Welsh language, so far as material to the application;]*
- (b)any local finance considerations, so far as material to the application, and*
- (c)any other material considerations.*

Section 38(6) of the Planning & Compulsory Purchase Act 2004 further provides that:

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.

For the purposes of this application, the development plan consists of the Mid Sussex District Local Plan and the Bolney Neighbourhood Plan.

3. Relevant Planning History

Application BK/05/02763/FUL – Application for removal of s106 agreement to allow granny annexe at Park Farm House to be a separate dwelling house.
Refused 28th February 2006.

The proposal put forward in 2005 was determined by the planning authority to represent the creation of an independent dwelling in the countryside, contrary to Policies C1 and H11 of the Mid Sussex Local Plan 2004.

Planning Appeal APP/D3830/Q/06/2017195 against the refusal of application BK/05/02763/FUL was dismissed by the Inspector on 23rd March 2007, upholding the planning authority's refusal.

Justification for removal of the s106 agreement

Whilst the application and appeal cited above were unsuccessful, the planning system has change immeasurably since those decisions were taken.

The most significant change, of course, has been the introduction of the NPPF in 2012 and its evolution since but there has also been a shift in Mid Sussex District Council's development plan policies and the way in which those policies are applied in deciding proposals for housing. Recent examples are as follows:

DM/20/2068 Use of ancillary annexe as independent dwelling. Approved

Whilst the annexe in this application was secured for ancillary use only via condition, rather than s106 agreement, the principles and policies involved in the deliberation of the application are identical to those which will be applied by the decision maker in deciding the current one.

The proposal did not comply with the criteria set out under policies DP6 and DP15 but other material considerations were taken into account, allowing the conclusion that the proposal was in accord with the development plan as a whole.

Factors which weighed in favour of approval were:

- Physical separation from the host dwelling
- Design capable of providing the ability to provide independent accommodation without reliance upon the host dwelling.
- No physical change proposed
- Provision of adequate off-road parking
- The annexe met Technical Housing Standards minimum size criteria

All of the above are applicable to the current proposal.

DM/21/0446 – Change of use of ancillary annexe to independent 2-bed dwelling.
Approved.

The rationale applied in the deliberation of this application mirrors that of application DM/20/2068, taking into account the same material considerations and arriving at the conclusion that the proposal was in accord with the development plan, when read as a whole.

DM/22/1920 – Change of use from ancillary annexe to independent dwelling.
Approved

This application is perhaps of even more relevance to the deliberation of the current application proposal, the site in question being part of the same cluster of dwellings off Broxmead Lane.

Again, the rationale closely follows that used in the deliberation of the two applications cited above.

4. Policy Considerations

Mid Sussex District Local Plan (MSDP)

DP4 - Housing

DP6 - Settlement Hierarchy

DP12 - Protection and Enhancement of the Countryside

DP15 - New Homes in the Countryside

DP16 - High Weald Area of Outstanding Natural Beauty

DP21 -Transport

DP26 - Character and Design

DP27 - Dwelling Space Standards

Bolney Neighbourhood Plan

BOLD1 – Design of New Development and Conservation

BOLT1 – Transport Impact of Development

BOLE2 – Protect and Enhance the Countryside

BOLT3 – Off Street Parking for New Residential Developments

Design and impact upon the character and appearance of the area.

This aspect was considered in detail when deciding application BK/039/99. The conclusion reached was clearly that the design was considered to be sympathetic to the High Weald Area of Outstanding Beauty and not having an adverse effect upon the character and appearance of the area.

The design remains unchanged for the current proposal, which is therefore in accord with Policies DP16 and DP26 of the MSDP. The objectives of Policy DP12 of the MSDP and BOLE2 of the Bolney Neighbourhood Plan are also amply met, along with those of Paragraph 189 of the NPPF (as amended).

Neighbouring Amenity

No changes are proposed for the design of the annexe and whilst there is a proposed change of the planning use to allow its use as an independent dwelling, the nature of occupancy would not be markedly different from the existing.

The current use is, and has always been, to provide accommodation for family members and, on occasion, visiting friends, in adherence with the stipulations set out in the s106 agreement.

The two-bedroom size of the annexe dictates that the number of occupants in residence as an independent C3 dwelling would be little different to the existing use. Therefore, it is logical to conclude that the accordance of the prior application proposals relating to the annexe with Policies C4, B1 and B3 of the superseded District Plan should translate to the current proposal being in accord with Policy DP26 of the Adopted District Plan and BOLD1 of the Bolney Neighbourhood Plan.

Highways/Parking

Policy DP21 requires appropriate access to public transport. With a Bus Stop only a few minutes' walk from the proposal site, this requirement is clearly met.

BOLT1 addresses access and pedestrian/cycle safety requirements.

The proposal site is served by an existing access shared by the group of existing dwellings in the immediate locality. The access leads onto Broxmead Lane, which is subject to a 40mph speed limit, promoting safety for both pedestrians and cyclists.

BOLT3 sets out off-street parking requirements for new residential development. The proposal provides parking facilities far in excess of that required, easily accommodating the additional requirement for visitor parking.

Standard of Accommodation

The annexe contains all facilities required in order for it to be used as a dwelling entirely independently from the host dwelling.

Policy DP27 sets out the minimum space requirements for occupancy and represents the formal adoption of the Government's *Technical Housing Standards – Nationally Described Space Standards* document.

All room sizes are in excess of the minimum standard required.

Policies DP6 and DP15 of the MSDP

It is appreciated that the proposal is not in full accord with these two policies. However, this alone does not constitute a sustainable reason for refusal.

5-Year Housing Land Supply

The applicant understands that it was determined in a recent appeal¹ that Mid Sussex District Council cannot currently demonstrate a 5-Year Housing Land Supply.

It is acknowledged that the paragraph 11(d) tilted balance need not be triggered if policies in the Framework which “protect areas and assets of particular importance provides a strong reason for refusing the development proposed”.

The High Weald AONB, in which the application site is located, would undoubtedly qualify as an area of particular importance. However, in the light of the three application decisions and the rationale applied in each, it is suggested that paragraph 189 does not provide a sustainable reason for refusal.

Similarly, paragraph 11(d)(ii) provides a further exemption where the tilted balance need not be applied but again the applicant believes that the proposal is in accord with the relevant provision within the Framework.

The decision as to whether the tilted balance is triggered is, as ever, one for the decision maker. However, the applicant believes that the proposal is nonetheless in accord with the relevant local and national policies taken as a whole, whether the paragraph 11(d) presumption in favour of sustainable development is triggered or not.

Summary

The proposal accords with Policies DP4, DP12, DP16, DP21, DP26 AND DP27 of the MSDP, along with Policies BOLD1, BOLT1, BOLE2, and BOLT3 of the Bolney Neighbourhood Plan.

Whilst the proposal is not entirely in accord with Policies DP6 and DP15, if the rationale applied to applications DM/20/2068, DM/21/0446, and DM/22/1920 is followed, this does not preclude approval of the current proposal.

The nature of the defined cluster of dwellings does not present any risk of the spread of development into open countryside and the existing nature of the building, along with no proposal to alter it in any way, ensures that the character and appearance of the street scene will be unaffected.

¹ Appeal Ref: APP/D3830/W/215/3367543

The shift of planning policy in relation to existing annexes such as those cited, firmly indicates that there is no justification in 2026 for the retention of the planning obligation attached to the original planning permission in 2000.

The applicant firmly believes that the proposal accords with the development plan as a whole, along with national requirements set out in the NPPF, and meets the requirement of s106A for the planning obligation to no longer serve any useful purpose. The applicant therefore respectfully requests that the obligation be discharged and removed from the planning register.