TOWN AND COUNTRY PLANNING ACT 1990

Site Address: Lancing Manor Filling Station, Old Shoreham Road, LANCING, BN15 0QS

Appeal by Kato Holdings Ltd

Planning Inspectorate reference: APP/Y3805/W/16/3143400

LPA reference: AWDM/1128/14

WRITTEN REPRESENTATIONS OF LOCAL PLANNING AUTHORITY

1. The Site and its Location

1.1 The site lies on the north side of the A27 (Old Shoreham Road) at the eastern edge of, but within, the built up area boundary for Lancing. The southern edge of the South Downs National Park lies directly to the north of the site. There are two existing access points onto the site which have previously been used as an in-and-out arrangement. Much of the site has been levelled and contains a concrete hard standing with a retaining wall around the north-east corner of the site. The western part of the site retains its original level and consists of an elevated grassed area with a large Acer tree sitting centrally within it. The land rises to the north and the boundary with the National Park which contains trees and other vegetation. More substantial trees can be found along the eastern boundary. The boundary trees to the north are subject to Tree Preservation Order 4/1960 which covers a group of 24 Elms, while to the east there is a group of protected Beech, Sycamore and Ash trees. A copy of the TPO has been forwarded previously. It appears that a large number of the preserved trees on the northern boundary have either died or been removed in the past as the boundary predominantly consists of only small trees and shrubs.

1.2 To the west there is a close-board fence on the boundary with a detached dwelling (Lancing House). That property contains a number of large trees within the garden close to the boundary. Other large detached dwellings lie further to the east. The south side of the A27 contains residential development (semi-detached and detached) and a former petrol filling station with canopy which was formerly used for car sales and is now a hand car wash facility.

1.3 The appeal site formerly contained a petrol filling station with 2 pumps, a kiosk and no canopy, but this use ceased over 20 years ago and the structures were removed. More recently, it was used for the storage of new cars under a temporary permission but this has now ceased (ADC/0459/06).

2. The Appeal Proposal

2.1 The appeal relates to an application for outline consent for the erection of 6 no. three bed dwellings comprising a terrace of 3 no. two storey dwellings positioned side-on to the A27 towards the eastern end of the site and 3 no. linked two storey detached houses also side-on to the road at the western end of the site. Access, layout and scale are to be considered at this stage, with design and landscaping reserved for future consideration.

2.2 The submitted plans show the existing access and egress points to be retained and a new access drive to be provided between the two rows of dwellings. The proposed linked detached houses (Plots 1-3) are each to have an integral garage with a parking space in front. The parking for Plots 4-6 is to be provided within a detached pitched roof triple garage building positioned at the eastern end of the site, with additional parking provided at the end of a new drive adjacent to the garage and in front of Plots 5 and 6.

2.3 The houses will step up into the site and there will be some cutting in towards the north of the site, with a new retaining wall provided to the north of Plots 1 and 4. The existing large tree (Acer) is to be felled in order to accommodate the development. Acoustic fencing (2.5m high) is to be provided along the southern and western boundaries of Plot 3 and along the southern and eastern boundaries of Plot 6 to protect the future occupants from road traffic noise.

2.3 The application was refused by Members of the Planning Committee for the following reasons:

01. The local planning authority is not satisfied that surface water from the proposed development can be satisfactorily drained without resulting in an increased risk of flooding elsewhere in the locality due to potential disturbance to the ground water flows as a result of the proposed underground water storage tanks and the lack of an adequate, functioning drainage connection to enable the safe discharge of surface water from the site. The proposal is therefore contrary to saved policy AP4 of the Adur District Local Plan and paragraphs 100-104 of the National Planning Policy Framework relating to flood risk.

02. The proposed development, due to its close proximity to the A27 trunk road and the resulting traffic noise, would result in a poor residential environment with unacceptable internal and external noise levels causing harm to the residential amenities and enjoyment of future occupiers. The proposal is therefore contrary to saved policy AH2 of the Adur District Local Plan and paragraph 123 of the National Planning Policy Framework relating to noise.

03. The proposed means of noise attenuation, indicated by 2.5m high acoustic fences on the submitted drawings, by reason of their height and position on the frontage of the development, would be visually harmful and intrusive features, out of character with the area and contrary to saved policies AG1 and AH2 of the Adur

District Local Plan and paragraphs 56-66 of the National Planning Policy Framework relating to good design.

04. The development would have direct access onto the A27 trunk road and vehicles accessing and exiting the development would, as a result of traffic speeds along this stretch of the road, increase the risk of accidents to the detriment of highway safety. The proposal is therefore contrary to saved policy AH2 of the Adur District Local Plan and paragraph 32 of the National Planning Policy Framework which requires safe and suitable access to be achieved.

05. The site was formerly in use as a petrol filling station and is known to be contaminated. The local planning authority is not satisfied that the proposed residential development is an acceptable use of the land due to the high level of contamination. It has not been demonstrated that the site can be adequately remediated to secure a safe development without causing harm to public health. The proposal is therefore contrary to paragraphs 109 and 120-122 of the National Planning Policy Framework relating to contaminated land.

3 Planning Policy

3.1 The adopted Development Plan for the area comprises the Adur District Local Plan (1993-2006). The Adur District Local Plan 1993-2006 was adopted in 1996, following a Public Inquiry. A number of policies have been 'saved' until adoption of a new Adur Local Plan, including those relevant to this appeal, namely AG1, AH and AP4.

3.2 Policy AH2 states that new residential development by way of infilling or redevelopment will be acceptable in the built-up area, subject to a number of criteria. These include ensuring that the appearance, character and scale of development enhances the existing local environment with particular attention paid to form, height, density and layout; and it incorporates adequate standards for residential amenity for the new dwellings in terms of open amenity space, daylight/sunlight, outlook and privacy.

3.3 New national floorspace standards were introduced on 1 October 2015. The new national standard does not provide information on external space standards for new dwellings and the Council's supplementary planning guidance in the form of Development Control Standard No.2 – Space Around New Dwellings and Flats should therefore be taken into account for relevant applications.

3.4 Paragraph 215 of The National Planning Policy Framework (NPPF) states that in the case of policies adopted prior to 2004, "due weight should be given to relevant polices in existing plans according to their degree of consistency with (the NPPF)."

3.5 It is the Council's contention that the relevant policies are fully consistent with the NPPF and should be afforded significant weight. This is confirmed in the Council's assessment of the saved policies (attached as Appendix 1) and which confirms that the policies referred to are in conformity with the NPPF, namely that Policy AH2 supports new housing development provided there is no harm to residential amenity and the surrounding area, i.e. it is sustainable development.

3.6 The NPPF seeks to achieve sustainable development, defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 states that "to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system." They cannot be considered in isolation. Paragraph 64 of the NPPF states that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

3.7 The saved Adur District Local Plan policies comprises the Development Plan here but the Government has accorded the National Planning Policy Framework considerable status as a material consideration which can outweigh the Development Plan's provisions where such plan policies are out of date; or silent on the relevant matter. In such circumstances paragraph 14 of the NPPF states that where the proposal is not otherwise in conflict with specific restrictive policies in the Framework, development should be approved unless the harm caused significantly and demonstrably outweighs the benefits when assessed against the NPPF overall.

3.8 The Council argues that the appeal should be dismissed as the development fails to achieve social or environmental gains by failing to create a high quality built environment or improving the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (para 14).

4 Material Considerations

Surface Water Drainage and Flood Risk

4.1 The first reason for refusal relates to surface water drainage. As can be seen from the consultation responses received from the Council's Drainage Engineer and the representations from local residents (summarised in the Officer's Report and included with the Consultation Responses and Third Party Representations forwarded previously), the area in the vicinity of the appeal site is known to suffer from groundwater emergence in the form of springs and there is a high risk of ground water flooding. It is therefore critical that it can be demonstrated that surface water from the development can be adequately drained before any consent is granted. In addition, it must be demonstrated that the provision of the underground water storage tanks will not cause disturbance to existing ground water flows. The concern is that, without evidence to confirm that these aspects can be addressed, there is a very real risk that the development will worsen the flood risk to other land and properties in the vicinity, including onto the A27.

4.2 It is known that there are problems with surface water ingress into the foul sewers in the A27/Grinstead Lane Area to the west of the site. At the beginning of 2016 traffic in Grinstead Lane was disrupted for over 5 weeks due to the foul sewer pumping station overflowing and causing flooding on the road. Southern Water Services were also required to pump out foul sewers in the Manor Road and Manor Close area. To actively encourage a surface water discharge from this proposed development into the foul sewerage system would therefore seem illogical.

4.3 The site is served by an existing Surface Water sewer which passes under the A27 and discharges into the Lancing Ditch system. However, it has been confirmed by the appellant that this pipe is currently blocked and appears to have been damaged. The Council is concerned that, should the appeal be allowed, the developer could insist that connection to the pipe under the A27 is not viable and they will therefore have to proceed to connect to the foul sewer, exacerbating the existing capacity problems. This issue is too important to be reserved by condition and the Council considers that the appellant must therefore locate the surface water drainage outfall pipework and either demonstrate that it is capable of accommodating surface water flows from the development, or can be repaired satisfactorily, before consent for the development is granted. It would be perverse to grant consent subject to a pre-commencement condition in this case as the drain may ultimately be proven to be incapable of use or too costly to repair. The local concerns regarding flood risk are such that no development should be allowed until the satisfactory means to deal with surface water disposal has been proven to be achievable.

4.4 Similarly, there is a valid and reasonable concern that groundwater flows through the site will be disrupted by the siting of underground surface water storage tanks. While it is acknowledged that the existing underground fuel tanks already cause some disruption to ground water flows, it is not known if the proposed new tanks will result in further disruption. There is also concern that when the existing fuel tanks are dug up and removed, there could be damage to the clay head layer which would then exacerbate flooding problems downstream. Insufficient information has been provided by the appellants to satisfy these concerns and, as with the surface water drainage concerns, it is considered that this issue is critically important and needs to be resolved before any permission is granted, rather than be dealt with by planning condition.

Traffic Noise

4.5 The site is adjacent to the A27, which is a very busy trunk road. The nearest house (Plot 3) is shown as being just 7m from the edge of the carriageway. The houses have been orientated to be 'side on' to the road with no side openings shown on the indicative elevations, but noise from the road will be audible within the nearest houses, as acknowledged in the appellants' own Noise Assessment. It concludes in Section 6 that acceptable internal noise levels "will only be achieved with closed windows" and provided a 2.5m high 'noise fence' was also erected. Residents are advised to open their windows for "purge ventilation…at a time that would result in the least disturbance (open bedroom windows when arriving home and close before sleep)" (para 6.1).

4.6 The Government's Planning Practice Guidance on Noise states that "having to keep windows closed most of the time because of the noise" is a "significant, observed, adverse effect" which should be avoided.

4.7 Externally, Plots 3 and 6 would have noise levels "higher than the (WHO/BS8233) upper limit of 55dBA." The suggested means of offsetting this noise impact is for the residents to walk to Lancing Manor Park, which is approximately 4-5 minutes' walk to the west, or the National Park to the north. The Government advice is that noise impact may be partially offset by access to "a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance)." While Lancing Manor Park may be within 5 minutes' walk, it is not a particularly quiet location and traffic noise is audible when within

the park. It is not agreed that this provides suitable respite for residents who would otherwise be subjected to unacceptable noise within their gardens and homes (except when the windows are shut). The National Park has the potential to offer greater respite but it involves a strenuous walk up hill on uneven ground which would not be suitable for everyone.

4.8 The Council contends that the extent of noise disturbance, particularly for the occupiers of Plots 3 and 6, would be unacceptable resulting in poor living conditions and harm to the residential amenities and enjoyment of those future occupiers.

Visual Impact of Acoustic Fences

4.9 It should be noted that the appellants consider that the level of noise disturbance is acceptable as the dwellings will be protected by acoustic fencing and the most harmfully affected dwellings will have to shut their windows for much of the day. If the fencing was removed, this would therefore most likely significantly worsen the impact for the future residents.

4.10 The proposed fences would run parallel to the A27 and, in the case of the fence to the south of Plot 3, would be just 1m from the pavement at a height of 2.5m. The recommended fence type, as suggested in the Noise Assessment, would be a solid timber barrier which would have a harsh and negative visual impact.

4.11 Dwellings along the A27 have flint walls, low brick walls or trees/hedges along their frontages. There are no examples of closeboard fencing. The proposed acoustic fences would be intrusive and alien features, with little space available to provide any meaningful landscaping to soften their appearance.

4.12 The acoustic fences are only required as they help to reduce the noise impact to the future residents. However, the Council contends that they will still not be sufficient to provide an acceptable residential environment, as discussed in the previous section, and the benefits to future residents are not therefore sufficient to outweigh the visual harm that the fences will cause.

Access and Highway Safety

4.13 The site has an in-and-out access from the A27. The speed limit at this point is 40mph but drivers are known to regularly exceed this limit as they accelerate towards the national speed limit which begins approximately 145m to the east. Cars slowing down to enter the site, or those exiting the site from a standing start, will be leaving or entering traffic which are likely to be travelling at high speeds. Residents leaving the site may also wish to immediately cut across to the other side of the carriageway via the central reservation just past the access to Hoe Court to the east. There is therefore an increased potential for accidents as a result of this development.

Contaminated Land

4.14 The site was formerly in use as a petrol filling station and is known to be contaminated, as confirmed in the appellants' Phase 1 Desk Study. The report indicates the presence of potential carcinogenic contaminants. Furthermore, there are underground petrol

tanks on the site and the report acknowledges that “there is a high risk of pollution during the usage, installation, decommissioning and removal” of these tanks. The Council is concerned that the contamination risks are such that there is a threat to human health, through possible pollution of groundwater during the removal of the tanks as well as the risk to the health of future residents.

4.15 Paragraph 009 of the NPPG states that “local planning authorities should be satisfied that a proposed development will be appropriate for its location and not pose an unacceptable risk.” As with the drainage concerns referred to earlier in this statement, the Council considers that because of the sensitivities of the site with regard to high groundwater and the risk of pollution, the site should be remediated and declared fit for human habitation before any other works to redevelop the site are commenced. As it stands, the Council is not satisfied that the site can be adequately remediated to secure a safe development without causing harm to public health.

5 Conclusion

5.1 The Inspector is respectfully requested to dismiss the appeal for the reasons referred to in this statement. However, without prejudice to the Council’s case, if the appeal is allowed the Council requests that the conditions submitted separately be imposed.