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Subject: Comments to oppose AWDM/0561/26 - The Drive Mill Lane BN13 3DF

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J Kelly

Neighbours are relieved to have received confirmation from our councillor that “if minded to approve” the following applications are to be Called In for consideration by the Planning Committee: AWDM/0645/26 and AWDM/0561/26

S73 cannot amend the original title of the permission granted in 2013 which includes the phrases “Four Houses” and “Demolition of The Drive”, to quote Parker Dann, the demolition is an “Operative” part of permission AWDM/0615/13. Just because the 2013 plan *can* be the subject of a s73 application doesn't explain why the same process was not applied to the other two houses on Plots 1 and 2 which are the subject of AWDM/0645/26? S73 might be available but is it the *best* option for anyone other than the builder or his Mother who owns the land. The agent seems very anxious to stress the legality of this Section 72 approach without explaining what's really behind it. The actual legal argument, with case citations, which *should* be presented is a discussion of the severance planning principle. From Finney the CA simplified matters and local residents would welcome a return to a more straightforward approach. No one is saying plans cannot be changed or modified but these two applications represent a very convoluted approach when in reality the applicant could follow the advice in Finney and simply submit a new application for the entire site. Could the LPA no invite the builder simply submit new full application for the site and help provide clarity to local residents as to the actual plans for the site? I read the following cases:

- Fiske
- Dennis
- Pilkington
- Hillside
- Finney
- Norfolk Homes

This seemingly unnecessary administrative split under two application AWDM/0645/26 and AWDM/0561/26 raised eyebrows. A perfectly adequate full permission for three houses on Plots 1 and 2 was granted last year under AWDM/0530/25...scope to amend those houses under 0530 via a s73 is also available, so why do this? Amending 0530 offered a simple, familiar cost and time effective way to tweak the plans for the last 3 houses, and still does. There's no provision for planning severance or mention of separate phases under AWDM/0615/13. Regarding the proposed house, there's little info within the 0561 application in the plans or the Parker Dann letter; *so little* that I am unable to comment yet. That in itself raises red flags. I'm keen on nostalgia, but what lies behind the new obsession with the 2013 permission? It's barely been mentioned for years apart from in enforcement and court documentation? Why must the site be limited to “4” houses all of a sudden (see the Parker Dann document page 3) – surely the split 6 years ago to increase the houses to two houses on plot 3 was approved, therefore the *total* was increased to 5 (or 6) for the *entire* site as a result of AWDM/0692/20 being approved? Last year 0530 increased the potential final total to 7 and was approved. Why the sudden concern about the number? As far as I know, no one has accused the builder, ParkerDann or any other agent of effecting a breach of the 0615 permitted plans onsite because the envisaged maximum of 4 from 2013 had been exceeded. The total was increased legally by due process of applications in 2020 and 2025? The decision notice for AWDM/0692/20 does not mention the need to alter the site total to make the 2013 “title” work for all future changes? No house was deleted from plots 1 and 2 to compensate and maintain this apparent numerical status quo. Can this logic be

explained? Something about the wording of AWD/0615/13 must suit them better than the equally sound permission under AWD/0530/25?

Can we agree that no planning rules would be broken by building the 3 houses under AWD/0530/25 resulting in a site total of 6? That's a very simple option! Alternatively, the house total of three existing houses under AWD/0615/13 is met, plus the house proposed under this application on the **CBB*** plot = 4 houses! Just demolish The Drive (it's a house) and the maths works and the title "operative" is fulfilled! Here's another scenario: until it's demolished The Drive (it's a house) IS the fourth house. Job done.

What was not clear from the other application AWD/0645/26 when that was the only application available via the planning portal last month and the comment deadline was looming, is that by this reckoning, is the applicant saying there is *no* permission existing for 6 houses onsite yet? A return to a holistic approach is imperative with all aspects currently split over 2 applications being considered at the same time. Parker Dann seems to have identified a planning problem that doesn't exist, then proposed the *least* straightforward solution.

The agent's document uses more column inches explaining the judgement from the Armstrong case than it does explaining the differences in the new house design! If I have misread this I'm sorry, but it looks as though the brow-beaten neighbours will face a single house built on the furthest Easterly (aka CBB) part of plots 1 and 2 (the other two houses are likely a fantasy and will *never* be built): The *actual* house built under **0561** may or may not be a 3 storey home with habitable rooms in the loft-space together with clear-opening Velux windows overlooking the wee bungalows beneath. Tenants might be hastily installed, providing additional income via *another* SPV recently incorporated in May 2026. More than 3 years will then pass before AWC may bring court action that might result in a modest fine of less than a months' rent. Meanwhile none of the outstanding AWD/0615/13 or other conditions that were triggered when 3B was first occupied several years ago are any closer to completion. The Drive (still a house) may be still occupied, still rotting and won't be demolished. There will be no safe road surface, surface drainage or visibility splays, no supplementary planting and the only "turning head" onsite will remain deliberately blocked by a scrap untaxed vehicle as it has done for 6 years. It's a bleak picture, but residents' likely reality. All the surrounding homes and residents are impacted by this small back-land site which has barely contributed to the Worthing housing stock in over a decade.

Will *all* the relevant and desperately required planning conditions be layered to protect the quiet enjoyment of neighbours during the next protracted build? Will partially "discharged" conditions (such as the CMS) be reinstated for this **CBB** plot? I'm linking the previously submitted comments from Mr Shad last year because they don't appear to have been repeated this time. When expert submissions register no comment on a s73 doesn't all their past accumulated wisdom for the same plot/site carry forward and be restated within the latest set of conditions? Can the submission from the 2025 permission by Mr Shad be attached or carried forward? I recently made enquiries as to whether the 2025 Conditions would still apply now that work has started.

The passage of 13 years since the conditions were added to AWD/0615/13 are no less relevant today in 2026 than those applied last year with the 2025 decision. Is there no flexibility for those *original* Conditions to be reviewed through a 2026 lens because a s73 application is used on that permission rather than on the 2025 permission? It would have been useful to have that perspective ahead of these comments. Work to implement the 2025 permission has already begun onsite, so the choice to revert to the out-dated permission adds weight to speculation that the avoidance of the conditions from 2025 is the *real* reason for this anomalous approach.

I have been asked to itemise all the factual errors and label "inaccuracies" within these two applications' plans, maps etc. I take it that the a simple comparison with OS maps, Google Earth and HMLR plans etc would provide this info and that WSCC, Water, Public Health, Drainage, Highways etc will then revisit their desk-top submissions if I do this? Strange that, for years, only the neighbours keep calling out these "mistakes". A brief site visit would also reveal many of the "errors", it's a shame neither the architect nor planning agent has picked up these errors over recent years. I mention them every time. I assume an application signature includes a declaration of truth?

Am I right in thinking that there is no valid Biodiversity Net Gain survey document to accompany this plot **CBB** since a revised submission under AWD/0630/26 reduced the number of trees to be planted to reflect it being limited to 2 instead of 3 houses? I look forward to another 1500 page-turner to support this single house which doesn't seem to have been supplied with a BNG report to bring the 2013 permission up to 2026 BNG standards. Or does the 2025 net gain plan still apply under AWD/0530/25 because work has already started? If only there were a way to consider all the proposed changes together, holistically, to circumvent all this confusion and extra tax-payers time and money?

The content of AWD/0561/26 hints at a possible motive behind *both* recent applications, and it doesn't serve local residents or AWC well if it is rubber-stamped by the planning department.

*Please could we have some meaningful identifiers for the re-designated plots because numbers 1 to 4 have already been used elsewhere onsite within living memory and are still in use? For this AWD/0561/26 application perhaps "**CBB**" could be applied referencing that this small area is "**C**lose **B**ehind **B**ungalows" on Mill Lane and High View? For the purposes here I'll refer to the house under AWD/0561/26 as **CBB**:

The reasoning behind AWD/0561/26 is to set aside the permission granted last year for the last 3 houses on site, which came with a number of "pre-build" conditions which the builder may find restricting. By reverting to the site planning permission granted under AWD/0615/13, for the single house **CBB** immediately behind the bungalows on Mill Lane (from Lanterns to Duro Venum) they are seeking to *disassociate* it from last year's "pre-build" conditions, including some deemed necessary by outside bodies such as the water company. This **CBB** house is the *one* they want to build, unfettered by the demolition of The Drive (house). Whether they have any motivation to realise the other two houses under AWD/0530/25 or proposed under AWD/0645/26 is opaque.

This allows them to start and complete the build of a house unencumbered by a clause requiring the demolition of The Drive before they start.

It reverts to the old "Pre-occupation" 2013 conditions which AWC has not yet been able to enforce since the last Planning Committee scrutiny 3 years ago in September 2023. If the landowner's latest SPV letting agent company then lets the house to tenants anyway, without completing the site (further breaching already breached conditions), there seems little to protect existing long-term long-suffering residents from further harm.

The Harm to the local community was recognised under oath last year by the builder when pleading guilty during magistrate court proceedings for unresolved planning breach enforcement. With no show of good faith since to rectify any breaches, the neighbourhood is still suffering and has no reassurance that this new tack will protect them from another house *possibly not built to permitted plans*, or another tenant installed before all the triggered conditions to FINISH THE SITE have been achieved. The LPA would say each application is considered on its planning merits but that does *not* dictate a blinkered disregard for community impact and further harm...those are valid planning considerations.

A definitive paper-trail of the various currently-applicable historic permissions, including drop-ins, slot-ins or whatever-is-currently-active and applicable on site would serve all parties well. Perhaps Parker Dann or one of the builder's other planning agents already has such a document they could share with the community to help us better understand what is happening here? Following a reported AWC agreement over a decade ago not to present a fractured piecemeal approach in the delivery of this site; that is exactly what has happened. The "site" has been subdivided in the past and reconnected with little explanation and it would greatly assist neighbouring residents for the landowner (the builder's mother) to embrace the provisions under Condition 14 AWD/0530/25 and engage with **public consultation**. It was an excellent suggestion by Mr Peck last year and I'm sure that clear and calm communication would go a long way towards reassuring the community that past breaches will be fixed and not repeated: That if a house were built on plot **CBB**, though *shown* as a 2 storey dwelling in plans, that it wouldn't be built as a three storey town house with habitable rooms in the loft space and over-looking windows or rooms inside the garage. These are not deviations created for effect. This might be an appropriate time to remind that the diagrams uploaded in the past few years for 3A and 3B do *not* reflect the as-built structures along with maps showing houses that don't exist and others incorrectly named or numbered or roads named as houses. Again, is there no signed declaration that the info supplied in an application is accurate or true?

With no apparent legal structure by which the LPA might halt the build on **CBB**, if it shows breaches of the 2013 conditions, The Drive (it's a house not a road) need not be demolished until "occupation". In 3 years since the last Planning Committee consideration of this site, AWC has not succeeded in enforcing these very breaches. Yes, the builder has been fined in court, but the residents are still suffering the same unmitigated harm.

There is evidence of work onsite under AWD/0530/25 having commenced under last year's permission towards construction of the 3 houses approved therein. Why not crack on with those three houses? Probably because the two houses to the west of plots 1 and 2 that require the demolition of The Drive (it's a house) will never happen; it's a story concocted to *appear* involved in busy-work towards demolition. The outcome for surrounding households? – A big ugly crumbling eyesore of a derelict house remains, a single tenanted house will be built behind the bungalows to create another healthy income stream; any enforcement fines will simply be a business cost for the newly incorporated SPV...but I'd love to be proved wrong! If AWC could facilitate the public consultation it

prescribed under last year's Condition 14 perhaps the builder or his Mum or agent could set the record straight and dispel this as ugly speculation? Maybe it could happen before the Planning Committee meeting?

Unless the Legal Department at the Council can identify a specific legal flaw in using the precedent from **Armstrong v Secretary of State for Levelling-up, Housing and Communities & Anor [2023] EWHC 176 (Admin)** in this case then I return to my original assertions that:

AWC could defer determination of these two May 2026 applications until the outstanding Windows and Demolition enforcement is resolved. A show of good faith would go a long way towards this. I believe an LPA is entitled to defer the determination of applications in circumstances of unresolved breaches and enforcement? From the public's perspective it is difficult to have confidence that the builder will adhere to any permitted plans until he has remedied any breaches. The Windows breach on plot3 is not subject to any more appeals.

Under Armstrong the **operative** wording of the 2013 permission includes as a core imperative the **Demolition of The Drive** and four houses. The proposed application still requires the demolition of the derelict house because that wording cannot be altered. It's an intrinsic part of the wording. But the proposed house-build on plot **CBB** still could physically proceed without that demolition and *that* is what is causing friends and neighbours considerable concern. It does not seem unreasonable for the applicant/landowner or agents to explain the proposed course of events that will achieve that demolition perhaps in the form of a comprehensive update to the Construction Method Statement originally required by condition under the 2013 permission? The CMS has never been updated or resubmitted for plots 1 and 2 at any point, perhaps that could be submitted prior to determination of this application or explained at the public meeting?

The Officer's Report under the 2013 decision AWD/0615/13 references a Section 106 agreement; might the return to this older permission enable a revisit of s106 to provide for the provision of unmet conditions in the event that the builder or his mum fails to make good on the overdue road, tree planting etc? That might reassure local neighbours.

Returning to the revision of the 2013 permission, surely it also requires the authorities and the applicant to revisit intrinsic elements that have altered over time – whether it's later versions of Local Plans, environmental statute, highways requirements, BNG etc? Would the resulting permission include the conditions **all** being brought in line with any such changes. If the conditions of 2013 are revisited I note that the decisions regarding what is adequate parking were based on representations that all the houses onsite would have 4 car spaces each either within garage or on driveways. We would welcome a return to an exploration of *that* promised higher standard, back in pre-Covid 2013 the builder's representation that each home would have 4 parking spaces was generous given home-delivery and hybrid-working were minimal by today's standards. The awkward-to-manoeuvre, in-line, meagre spaces on the plans for CBB are woefully inadequate particularly since there is no onsite visitor/delivery parking space and no functioning turning head. This is a small partially occupied site that is struggling to cope with 2026 traffic. The daily overspill parking on to the estate road and beyond on to Woodland Avenue has been logged many times. What is the significance of the inclusion of the refuse vehicle turning plan? What purpose does its inclusion serve except to highlight the 6 years of the blocked turning-circle (visible on Google Earth over many years!) Without knowing what the actual criteria is applicable I can't comment on the adequacy of the parking in the proposed plans for house **CBB** because it is woefully inadequate and seems to be written over an area previously designated as a communal waste and refuse collection point in some long-forgotten application. This is the problem with the over-layering of numerous inaccurate plans over time. It's caused by the departure from the original commitment to a holistic approach on site.

I don't know how AWC was intending to facilitate Condition 14 from AWD/0530/25, but opening up the plans to the scrutiny of our elected reps by "Calling In" to the Planning Committee goes some way towards this. The proposed consultation would also help, perhaps Mr. Peck could shed some light on what structure he had in mind to achieve this additional consultation under Condition 14 or in some other way? The current applications seem to offer the perfect opportunity for residents to access greater clarity. It's in all our interests for this protracted project to move forwards? Clarity and certainty is what we need.

Looking at Condition 2 under AWD/0615/13 it states:

"The development hereby permitted shall be carried out in accordance with the following approved plans"

Thirteen years on, the parts of the site completed under that and other permissions have failed to meet this most basic of planning requirements. Neither house on Plot 3 matches the plans as submitted or permitted. Elsewhere onsite all the pre-occupation conditions were triggered by the occupation of those two houses by tenants and none of those triggered conditions have been

met. On the “vacant” North side of the site, The Drive (it’s a house) is not demolished which itself prevents the other turning head being established. The demolition is a fundamental “operative” but there is no movement towards meeting that commitment; none whatsoever. It’s an appalling track record however you look at it.

Planning Severance Cases for consideration prior to determination:

Thank you for the citation of the Armstrong case because the use of s73 isn’t the relevant question. Is the applicant actually saying that 2 or more inconsistent applications have been implemented over time meaning that the law regarding severability of permissions is more pertinent? The LPA and Planning Committee should consider and apply the current legal position regarding overlapping inconsistent permissions on a single site where there has been no prior provision for severance from the outset. With no “phasing” conceived of, the permissions are not “separate, discrete, freestanding permissions” there is a “mere inconsistency”. Even the mention of a phasing condition (Dennis) isn’t enough on its own to establish severability. The cases above may shed some light but this is not an exhaustive list nor supplied as a fully formed argument. There are interesting comments in Hillside where the court emphasised that planning permissions should be interpreted holistically, meaning overlapping permissions for the same land should be approached with caution. A fresh new full application might be the better approach.

