



Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Wednesday 14 November 2018 at 9.30 am

**Members Present:** Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mrs J Duncton, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr S Oakley, Mr R Plowman, Mrs J Tassell, Mrs P Tull and Mr D Wakeham

**Members not present:** Mr M Dunn, Mr J F Elliott and Mr G McAra

**In attendance by invitation:**

**Officers present:** Miss C Boddy (Senior Planning Officer), Mr J Bushell (Principal Planning Officer), Mr A Frost (Director of Planning and Environment), Miss N Golding (Principal Solicitor), Miss K Davis (Member Services Officer), Mrs F Stevens (Development Manager (Applications)), Mr T Whitty (Divisional Manager for Development Management) and Mr R Walling (Senior Environmental Health Officer)

### 233 **Chairman's Announcements**

The Chairman welcomed everyone to the meeting and drew attention to the emergency evacuation procedure.

Apologies were received from Mr Dunn, Mr Elliott and Mr McAra.

### 234 **Approval of Minutes**

#### **RESOLVED**

That the minutes of the meeting held on 17 October 2018 be approved and signed by the Chairman subject to the correction of a typo under Minute number 222, to read Mr G Barrett.

### 235 **Urgent Items**

There were no urgent items.

### 236 **Declarations of Interests**

Mr Barrett declared a personal interest in planning application EWB/18/00753/OUT as a Chichester District Council appointed member of the Chichester Harbour Conservancy.

Mrs Duncton declared a personal interest in planning applications CC/18/02538/FUL, EWB/18/00753/OUT, BO/17/02114/FUL, CC/18/01188/FUL, CC/18/01189/LBC, E/18/00578/FUL, E/18/02199/FUL and EWB/17/03043/FUL as a member of West Sussex County Council.

Mr Hayes declared a personal interest in planning applications CC/18/01188/FUL, CC/18/01189/LBC as an employee of West Sussex County Council.

Mr Hixson declared a personal interest in planning applications CC/18/02538/FUL, CC/18/01188/FUL and CC/18/01189/LBC as a member of Chichester City Council.

Mrs Kilby declared a personal interest in planning applications CC/18/02538/FUL, CC/18/01188/FUL and CC/18/01189/LBC as a member of Chichester City Council.

Mrs Kilby declared a personal interest in planning application CC/18/02538/FUL as a Chichester District Council appointed reserve member of the Chichester Business Improvement District.

Mr Plowman declared a personal interest in planning applications CC/18/02538/FUL, CC/18/01188/FUL and CC/18/01189/LBC as a member of Chichester City Council.

Mr Plowman declared a personal interest in planning applications CC/18/02538/FUL, CC/18/01188/FUL and CC/18/01189/LBC as a Chichester District Council appointed member of the Chichester Conservation Area Advisory Committee.

Mr Plowman declared a personal interest in planning application CC/18/02538/FUL as the event organiser of Priory Park 100. This declaration was different from his original prejudicial interest declaration made at the previous meeting on 17 October 2018, which he had made as Chairman of the Friends of Priory Park following officer advice received. He advised that he was no longer the Chairman or a member of the Friends of Priory Park. With regard to the issue of predetermination, he advised that he did not believe he had done so and advised that he would approach the planning application with an open mind.

Mr Oakley declared a personal interest in planning applications CC/18/02538/FUL, EWB/18/00753/OUT, BO/17/02114/FUL, CC/18/01188/FUL, CC/18/01189/LBC, E/18/00578/FUL, E/18/02199/FUL and EWB/17/03043/FUL as a member of West Sussex County Council.

Mrs Purnell declared a personal interest in planning applications CC/18/02538/FUL, EWB/18/00753/OUT, BO/17/02114/FUL, CC/18/01188/FUL, CC/18/01189/LBC, E/18/00578/FUL, E/18/02199/FUL and EWB/17/03043/FUL as a member of West Sussex County Council.

## **Planning Applications**

The Committee considered the planning applications together with an agenda update sheet and supplementary agenda update sheet at the meeting detailing the observations and amendments that had arisen subsequent to the dispatch of the Agenda.

During the presentations by officers of the applications, members viewed photographs, plans, drawings, computerised images and artist impressions that were displayed on the screens.

## **RESOLVED**

That the Planning Committee makes the following decisions subject to the observations and amendments below:

### **237 CC/18/02538/FUL - Priory Park, Priory Lane, Chichester, PO19 1BL**

This application had been considered at the previous meeting held on 17 October 2018 and delegated to officers to determine subject to no objection being received from Historic England and no new significant material considerations being raised through third party representations. However, the application had been brought back to the Committee for determination following material changes made to the proposed temporary ice rink. These changes included the use of ballast (no detail of fixing was originally proposed and pegs into the ground had subsequently been suggested) to secure the marquee and the relocation of one of the tech zones.

Additional information was reported on the agenda update sheet relating to further comments from Chichester District Council Environmental Health that included conditions recommended to the Alcohol and Entertainment Licensing Sub-Committee and CDC Drainage Engineer, 8 further third party objections, applicant's further supporting information, addendum to conditions 7 and 9, two additional conditions (noise complaint system) and (deliveries/waste collections), and that the recommendation remained to permit subject to the conditions, as amended.

Mr Whitty reported a further proposed condition concerning the playing of recorded music that required sound levels, other than agreed live music, not to exceed 5dB(A) above the background level noise 15 minute Leq.

Mr Walling reported that the concerns of Environmental Protection were about the likelihood of an overnight 24/7 operation. The applicant's acoustic consultant had undertaken a desk based modelling study. However, as the study did not involve any noise output for the chiller units or the generator, officers were keen to ensure that the levels outside were reduced by 15db to meet the World Health Organisation and BS8233:2014 standards. Therefore, he advised that there was a sound basis for the noise reduction assumptions and officers were content that the proposed attenuation measures would meet the required standards. Officers were content that the revised layout met the necessary requirements.

The following members of the public addressed the Committee:

- Mr S Ellis – Objector (Mrs Ellis spoke on his behalf)

- Mr A Green – Objector
- Mr B Dean – Objector
- Mr T Bottrill – Objector
- Mr T Lecompete – Objector
- Mr P Robinson – Objector
- Mr S McGee – Supporter
- Mrs L Wilson – Supporter
- Mr C Salmon – Supporter
- Mr C Spink - Supporter
- Mr A Moss – Chichester District Council member
- Mr E White – Applicant

Officers responded to comments made by the public speakers:

- Miss Golding advised that the two functions of the Council as landowner and local planning authority were totally separate. The law provided that where the Council was the applicant the Council must consider and decide their own planning applications on an objective basis.
- Mr Frost referred to the separate statutory processes and advised that the Committee would decide the application on behalf of the Planning Authority and consider the planning issues. A section of the report set out the other matters that were not material planning considerations. The Alcohol and Entertainment Licensing Sub-Committee would consider the licensing of the event and following that, depending on the approvals given, the Council would then decide if it was appropriate to hire the land to the applicant. He referred to a letter received in relation to a potential Judicial Review and made it clear that the Council's officers had considered and replied to the contents of the letter and had in very clear terms advised that the proper processes had been followed. He advised the Committee that the threat of a judicial review was not a planning consideration.
- Mr Whitty advised that taking a proportionate approach to the local list, all the documentation required had been submitted and considered, and met the necessary requirements. With regard to national requirements the proposal had met these requirements.

Mr Whitty responded to members' comments and questions:

- Historic England had considered there would be a small level of harm, but due to the temporary nature of the proposal they had not raised an objection. They had though, requested that the Planning Authority carefully considered the impact on the heritage asset and in particular the archaeological remains and were happy that their requirements had been met.
- He explained how the ballast, now proposed to secure the structure, would be used. The Council's Archaeology Officer had confirmed he was happy with the proposal and that sinkage into the ground would not be an issue. The Council's Drainage Engineer had confirmed that he was satisfied that the proposal would allow surface water to run off and drain into the surrounding ground given the temporary nature of the proposal. He confirmed that the Drainage Engineer had not looked into the issue from a point loading basis or at localised flooding points that might be caused by the structure itself, as this matter would be dealt with under the building regulations. Snow load allowance was a technical structural matter for consideration by the applicant and the building regulations.

- With regard to concern raised as to whether or not conditions (3 and 11) required details to be submitted could be properly considered in the short timescale, he explained that in the officers view the deadlines would give the officers sufficient time to determine the requirements of the conditions provided the details submitted were sufficient.
- With regard to a comment made that damaged ground should be re-turfed instead of re-seeded to bring it into use earlier, he advised that officers would need to investigate the appropriateness of such a requirement as part of the discharge of condition (3) or include an informative.
- With regard to the visual impact of the structures surrounding the noise emitting equipment, they would not have a significant impact on Priory Park due to their being temporary in nature and the benefit to noise attenuation.
- Mr Whitty advised that with regard to the securing of the proposed perimeter fence and the acoustic fence, in planning terms officers needed to be sure that the pins would not be secured into the ground at a depth of more than 400mm.
- Condition 6 could make reference to other protected species other than bats. The cumulative impact of other events that took place in the Park was not a material planning consideration when considering this application, but in any event officers were of the view that the proposed event was acceptable if cumulative impact was assessed.
- He confirmed that reference to food chiller units in the report was incorrect as there were none proposed.
- The fuelling of the generator was not a planning consideration being a matter for the applicant to make sure it was safe under other legislation.

Mr Frost clarified a number of points raised by members. Members needed to consider the proposals before them and judge them on their merits in terms, for example, of suggesting other venues they may think were more appropriate. With regard to concerns that the proposal was sited too close to nearby residential dwellings, the issue of noise had been considered carefully over the previous seven weeks and in response to some of the representations received. A noise management plan for the event and an acoustic assessment in respect of the fixed plant machinery had been prepared and thoroughly assessed by officers.

With regard to the fencing around the plant area, Mr Walling advised that there was provision for sound absorbing treatment in the recommendations of the consultant's acoustic report and these requirements formed part of a proposed condition. With regard to generator and cooling equipment noise, he explained the process for the assessment of the combined noise calculation, which required approximately the addition of three decibels to the combined noise sources.

Mr Frost advised that the development management process involved seeking to identify solutions to problems wherever possible. The application had been debated over two Committee meetings and all the legitimate material planning considerations had been assessed and negotiated with the applicant where appropriate. Officers had responded to the representations received and had carried out the necessary consultations with the external and internal consultees. He considered that the Committee had received sufficient answers and had all the relevant information before them to enable members to make a decision. He also drew attention to the economic benefits of the proposal, which was a material consideration.

At the conclusion of the debate, whilst members remained in support of a Christmas ice rink in principle, a number of members despite having heard the amendments made to the scheme remained particularly concerned about the impact of its proposed location upon the amenity of neighbouring residential properties and the damage that would occur to the ground. However, the majority of members, having taken into account the amendments made to the scheme since the previous meeting, in particular regarding noise mitigation measures, the protection method of securing the marque structure to the ground and the additional informative to encourage the applicant to consider re-turfing if the Council as land owner considered it to be appropriate, agreed that there were no reasons to refuse the proposal on planning grounds as it was compliant with the Council's development plan policies.

The Committee favoured 1) an amendment to proposed condition 11 to read the same as condition 3 that "within one month of the date of this decision" and, therefore, would require details to be submitted by 14 December 2018, and 2) an additional informative to encourage the applicant to consider re-turfing of the affected ground, subject to investigation by officers as to its suitability.

Recommendation to **Permit** with amended conditions 7, 9 and 11, and three additional conditions (noise complaint system), (deliveries/waste collections) and (playing of recorded music), and one additional informative (re-turfing) agreed.

238 **EWB/18/00753/OUT - South Downs Holiday Village, Bracklesham Lane, Bracklesham Bay, Chichester, West Sussex, PO20 8JE**

This application was withdrawn from the agenda of the meeting held on 19 September 2018 in order to address issues relating to the proposed Clappers Lane access to the site, which had now been removed from the proposals.

Additional comments were reported on the agenda update sheet relating to further comment from East Wittering and Bracklesham Parish Council and two further objections.

The following members of the public addressed the Committee:

- Mr B Reeves – Parish representative (East Wittering and Bracklesham Parish Council)
- Mrs S Simpson – Parish representative (Earnley Parish Council)
- Ms M Smith – Objector
- Mr J Greenberg – Agent
- Mr K Martin – Chichester District Council Member

Mr Bushell answered members' questions and comments.

- The Local Plan was clear as to what the marketing requirements were for a site where there was an existing tourism use which would be lost as in this case. Policy 30 referred to tourist accommodation. Where the proposal would result in the loss of that accommodation, Appendix E required a period of 12-18 months marketing to demonstrate that the site had not attracted an alternative tourism

user. It was clear to officers from the evidence that had been received, that sufficient marketing had taken place. The site had received some initial interest from a number of holiday operators but this had not been pursued further, with the main reasons given being that the size of the site was too small and the large capital investment required to bring the site back into use to modern standards in order to meet holiday makers expectations. Clear reference to 'hotel use' and 'holiday park' had been made in the advertising material which was spread across a number of different platforms.

- Although the Local Plan suggested housing densities of about 35 dwellings per hectare was appropriate, higher densities could be appropriate depending on local circumstances including transport links and the range of facilities nearby. He gave examples of other sites nearby which ranged between 17-40 dwellings per hectare and explained the reasons for these densities. The National Planning Policy Framework was clear in encouraging as much reuse of brownfield or 'previously developed' land as possible, optimising the use of the site and avoiding low densities. The development was located adjacent to a settlement hub which in terms of Local Plan policy 2 was the second most sustainable level of settlement in the District.
- WSCC Highways had no objection to the proposal in terms of the traffic impact, which would result in a net increase of 71 extra movements over the existing holiday use each day or to the indicative vehicle tracking drawing.
- With regard to the dwellings with driveways directly onto Clappers Lane, the plans before the Committee showed an illustrative only layout. As part of any subsequent reserved matters application the layout could be amended to show access and parking at the back of these dwellings..
- It may be more appropriate to have a lower density along the Bracklesham Lane and Clappers Lane frontages to ease the transition and to focus the higher densities towards the remaining part of the site.
- The proposed flats artificially made the density higher. The housing mix had been agreed by the Council's Housing Officer.
- With regard to prematurity, the Council currently had a five-year housing land supply and given that it was a brownfield site it was appropriate to deal with the application at this point in time.
- The Parish was currently preparing the Bracklesham and East Wittering Neighbourhood Plan. If planning permission was granted the Neighbourhood Plan would be required to provide 85 less dwellings.

Mr Frost responded to concern raised about mitigation in respect of education and highway works. The Council's Infrastructure Business Plan (IBP) prioritised the Chichester Local Plan wide infrastructure needs, allocating Community Infrastructure Levy funds for each year. The IBP contained a five-year plan and within that document set out the key projects, which included the Selsey Tram junction improvements and a reference to education and school places along the east/west corridor and the Manhood peninsula. The Committee should have confidence that the work was happening, albeit slowly and he advised that the infrastructure needs for the development would be met. He confirmed that WSCC Highways had looked at the impacts on junctions and with the exception of Selsey canal junction they had no concerns about their capacity to accommodate traffic from this development. Highways England had no substantive objection in terms of

infrastructure and had requested a contribution towards the current Local Plan A27 mitigation scheme, which the applicant had agreed to.

With regard to comments made by some members that the Parish had met its housing allocation of 180 in the current Local Plan, Mr Frost explained that this number was not a ceiling and where schemes came forward each application should be judged on its own merits and if found to be acceptable in planning terms planning permission should be granted.

Mr Whitty provided further information with regard to members concerns about the proposed density of 85 dwellings. It was not possible for the Council to impose a condition changing the amount to 'up to 85'. He referred to the difficulty in setting an accurate numerical value for densities of housing developments, as it depended on the size of the dwellings proposed on a site. The Committee's options were to ask officers to investigate if the applicant could provide other illustrative layouts that might demonstrate a density of 85 dwellings or seek to secure a lower density.

At the conclusion of the debate members supported a proposal to **defer** the application for officers to undertake negotiations with the applicant for the following reasons:

- To seek a modification of the description of the proposal so that it was for a development of 'up to 85' dwellings rather than a development of 85 dwellings.
- To negotiate repositioning the access and parking for those dwellings shown illustratively fronting Clappers Lane to the rear of those dwellings so that they do not directly access Clappers Lane.
- To negotiate a reduction in the scale of the dwellings located in the south-west corner of the site to 2 storeys to lessen the bulk of development at this prominent part of the site.
- To negotiate setting the dwellings on the west site boundary further back from the Bracklesham Lane frontage.

(The Committee took a lunch break)

**239 BO/17/02114/FUL - Hove To Smugglers Lane, Bosham, PO18 8QP**

This application was the subject of a member site visit held on Monday 12 November 2018.

Additional information was reported on the agenda update sheet correcting the location plan.

The following members of the public addressed the Committee:

- Mr A Chapman
- Mr G Fox - Agent

The Committee having visited the site considered 1) that the proposed replacement dwelling and ancillary accommodation was an improvement on the existing dwelling and ancillary accommodation and 2) that the proposal was in keeping with the character of the surrounding area.

Recommendation to **Permit** agreed.

240 **CC/18/01188/FUL and CC/18/01189/LBC - 25 West Street, Chichester, PO19 1QW**

The following members of the public addressed the Committee:

- Mr K Niazi-Borumand - Objector
- Mr P Cleveland - Agent

Mrs Stevens responded to the objector's comments concerning the marketing of the premises for office use, advising that a number of parties had expressed an interest. The Council's Economic Development Service had confirmed that the offers made were not close enough to the price sought by the applicant, which they considered was a reasonable valuation.

During the discussion some members, although noting that the retail unit was not in a primary or secondary shopping frontage location, raised concern about the loss of a retail unit in this location. However, the majority of members accepted that in light of adequate marketing that had taken place the proposed change of use to a residential dwelling was justified.

**CC/18/01188/FUL**

Recommendation to **Permit** with Section 106 Agreement agreed.

**CC/18/01189/LBC**

Recommendation to **Permit** agreed.

241 **E/18/00578/FUL - 113 Second Avenue, Almodington, Earnley, PO20 7LF**

Additional information was reported on the agenda update sheet amending the location plan, advising that Earnley Parish Council had withdrawn their objection, amended paragraph 8.18 and amended condition 12.

Recommendation to **Defer** for a **Section 106 Agreement** then **Permit** with amended condition 12 agreed.

242 **E/18/02199/FUL - Dragons Lair, Third Avenue, Almodington, Earnley, PO20 7LB**

Additional information was reported on the agenda update sheet regarding additional information received from the applicant, an addendum to the planning history, deletion of refusal reason no. 5 and one additional informative.

The following members of the public addressed the Committee:

- Mrs C Durant – Applicant
- Mrs S Taylor – CDC member

Responding to the public speakers' comments, Mrs Stevens advised that the updated National Planning Policy Framework (paragraph 79) allowed the sub-division of isolated dwellings within the rural area. Recent case law had defined that for a dwelling to be isolated it had to be physically isolated from other buildings. Consideration of isolation was not just about access to goods and services and the facilities required to support the development. Therefore, where previously in some instances dwellings would have been defined as an isolated dwelling in the rural area, that argument would no longer hold up as case law had made the accepted approach clear. With regard to the planning appeal decision (17/00013/REF), the Planning Inspector did not expressly state that the location was isolated but suggested it was in an unsustainable location in the countryside. Officers had addressed this issue in the Committee report and had advised that the site was situated in the rural area where new residential development would not normally be accepted unless there was special justification for it. There was none in this case and therefore was the reason officers considered the proposal was not acceptable in principle

Recommendation to **Refuse** agreed.

243 **EWB/17/03043/FUL - Sea Home, 20 Meadows Road, East Wittering, Chichester, West Sussex, PO20 8NW**

Additional information was reported on the agenda update sheet relating to further consultee comment received from WSCC, one additional condition (first occupation) and confirmation that recommendation remains to defer for a Section 106 agreement then permit.

The following members of the public addressed the Committee:

- Ms L Gillett – Objector
- Mr D Clapton – Objector

During the course of debate, members expressed concern about the proposed development, in particular the distance between the proposed two dwellings and in relation to the location of dwelling B on the eastern boundary to be accessed from Wessex Avenue and its distance to the highway.

With regard to overlooking, Mr Whitty responded that although there would be elements of first floor living, the dormers would have no windows and therefore was an exception to the separation distance guidance. In response to a question concerning the site being located at the edge of East Wittering settlement boundary with dwelling A being hard up to the northern edge and the parking area for dwelling B being hard up to the northern edge, it was accepted that there was some opportunity for planting along the eastern boundary of dwelling B.

In light of these concerns it was agreed to **Defer** the application for a member **Site Visit**.

244 **Schedule of Planning Appeals, Court and Policy Matters**

The Committee noted the schedule of planning appeals, court and policy matters that had been circulated with the agenda.

## **6.Court and Other Matters**

*River Farm:* The appellant had made an application to apply for permission to appeal to the Court of Appeal. The enforcement notice still stood.

*Breach Avenue, Southbourne:* A decision on the Council's application to apply for permission to appeal to the Court of Appeal was still awaited.

The meeting ended at 2.40 pm

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CHAIRMAN

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Date: