



Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Friday 11 November 2016 at 2.00 pm

Members Present: Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mr M Cullen, Mrs J Duncton, Mr M Dunn, Mr J F Elliott, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr G McAra, Mr S Oakley, Mr R Plowman, Mrs J Tassell and Mrs P Tull

Members not present:

In attendance by invitation: Mr D Smith (West Sussex County Council)

Officers present all items: Miss J Bell (Development Manager (Majors and Business)), Mr A Frost (Head of Planning Services), Miss N Golding (Principal Solicitor), Mrs K Jeram (Member Services Officer), Mr J Saunders (Development Manager (National Park)), Mr T Whitty (Development Management Service Manager), Mr M Allgrove (Planning Policy Conservation and Design Service Manager) and Mr S Ballard (Senior Environmental Protection Officer)

99 **Chairman's Announcements**

The Chairman welcomed everyone to the meeting and drew attention to the emergency evacuation procedure which was displayed on the screens. He introduced the officers present.

100 **Approval of Minutes**

Resolved

That the minutes of the meeting held on 12 October 2016 be approved and signed as a correct record.

That subject to the amendment of "Policy 17" to read "Policy 7" in line 11 of the second paragraph of Minute 98 on page 5 the minutes of the meeting held on 20 October 2016 be approved and signed as a correct record.

101 **Urgent Items**

The Chairman advised that there were no urgent items.

102 **Declarations of Interests**

Mr Barrett declared a personal interest in respect of planning application

CC/14/04301/OUT as a Chichester District Council appointed member of the Chichester Harbour Conservancy.

Mrs Duncton declared a personal interest in respect of planning application CC/14/04301/OUT as a member of West Sussex County Council.

Mrs Duncton declared a personal interest in respect of planning application CC/14/04301/OUT as a West Sussex County Council appointed member of the South Downs National Park Authority.

Mr Dunn declared a personal interest in respect of planning application CC/14/04301/OUT as a Chichester District Council appointed member of the South Downs National Park Authority.

Mrs Kilby declared a personal interest in respect of planning application CC/14/04301/OUT as a member of Chichester City Council.

Mr McAra declared a personal interest in respect of planning application CC/14/04301/OUT as a member of West Sussex County Council.

Mr Oakley declared a personal interest in respect of planning application CC/14/04301/OUT as a member of West Sussex County Council.

Mr Plowman declared a personal interest in respect of planning application CC/14/04301/OUT as a member of Chichester City 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 (copy of documents attached to the official Minutes).

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:

103 **CC/14/04301/OUT - Land West Of Centurion Way And West Of Old Broyle Road Chichester West Sussex PO19 3PH**

The Committee considered this application for outline planning permission with all matters reserved (except for access) for the first Phase of development for up to 750 homes with access from Old Broyle Road, temporary access from Clay Lane, a local centre (with associated employment, retail and community uses), primary school, informal and formal open space (including a Country Park), playing pitches,

associated landscaping, utilities and drainage infrastructure with on-site foul sewage package treatment plant or pumping station with connection to Tangmere Waste Water Treatment Works.

The application had previously been deferred following consideration at the following meetings:

1. At the special meeting held on 8 September 2016 for officers to undertake further negotiations with the applicant regarding (a) the Committee's concerns about the timing of delivery of the southern access to enable it to serve this scheme (phase 1) and (b) further investigation of the foul drainage options; and
2. At the special meeting held on 20 October 2016 for one month for officers to undertake further negotiations with the applicant regarding the delivery of the southern access route before development begins.

The following information was reported on the supplementary agenda update sheet relating to an additional recommended informative (delivery of the southern access within a specified timescale).

Miss Bell reminded members of the details of the outline planning application for the first phase for a mixed use development on land to the West of Chichester in a Strategic Development Location (SDL), which was an allocation in the Local Plan. The site had been developed as part of a masterplan, endorsed by this Committee, which demonstrated how the whole of the SDL would be developed and delivered. The application sought permission for the principle of the development and access details only. In addition to the Community Infrastructure Levy payment there would be a comprehensive package of on and off site infrastructure provision. The application also sought approval for six parameter plans. Following the first deferral of the application by the Committee the applicant had submitted additional information that included a waste water technical note, and air quality technical note, development delivery timeline (DDT), planning performance agreement (PPA), and letters from Linden Homes, Miller Homes and the land agent.

With regard to the delivery of the southern access, the DDT set out the applicant's intentions in respect of the delivery of the southern access. The infrastructure works for Phase 1 were due to commence during July 2018 following approval of both the Phase 1 outline and reserved matters applications. The Phase 1 residential works would commence end of 2018/beginning of 2019 and the first occupation of the dwellings was expected during the middle of 2019. At the same time as the first dwelling being occupied a reserved matters application for the southern access and the Phase 2 reserved matters was expected during summer/autumn 2019. Subject to the discharge of planning conditions and any associated ecological mediation matters, it was anticipated that the southern access would be available for use by construction vehicles by March/April 2020 at the occupation of the 120th or 125th dwelling approximately, one year and six months after the commencement of the development. It was anticipated that the additional work required to make the southern access fit for all use including residential would be completed by 2020 at the delivery of the 225th dwelling, approximately two years and six months after the commencement of the development. The PPA signed by both the applicant and

Chichester District Council officers reflected the timeline shown on the DDT and highlighted the key milestones to enable the delivery of the development and the implementation of the planning applications in respect of Phase 1 and Phase 2.

With regard to the negotiations that had taken place between the officers and the applicant since the deferral of the application, she referred to the letter attached to the report from Miller Homes, on behalf of Miller Homes and Linden Homes, dated 2 November 2016 that advised that they were unable to bring forward the provision of the southern access any earlier than proposed. They had stated that the timetable represented a reasonable programme as agreed with officers. The letter also advised that they could not make a legal commitment to bring forward the southern access sooner than the commencement of the construction of the 751st dwelling when considered in the context of the adopted Local Plan, the approved Masterplan and the Local Highway Authority's consultation response, which had advised that the development was acceptable in highway terms, subject to a Section 106 agreement. The applicant had advised that they would submit an appeal to the Planning inspectorate if there was a further deferral by the Committee or if the application was refused at today's meeting.

Miss Bell reported for clarification that an additional informative was proposed (as reported on the supplementary agenda update sheet) concerning the commitment by the applicant to provide the southern access to the site within the timescale in the DDT and PPA. In light of this the Local Planning Authority anticipated that that the southern access would be available for use by construction traffic no later than the occupation of the 125th dwelling as part of the Phase 1 scheme and that the southern access would be available for use by all traffic no later than the occupation the of 225th dwelling, as outlined in the PPA and DDT. The Local Planning Authority was committed to work with the developer and other relevant bodies who had an interest in the land.

There had been an additional amendment to condition 23 (electric vehicle re-charging points) to add a trigger for installation of electrical re-charging points.

Amended condition 33 (playing fields – ground conditions) required the playing fields to be available for use prior to the occupation of the 325th dwelling, which had been amended to tie with the Section 106 agreement.

Additional condition 37 (details in general conformity with Parameter Plans) had been included in the report to the Committee at the previous meeting that required the future reserved matters applications to be in general conformity with the Parameter Plans.

In summing up, Miss Bell reported that the principle of the mixed use development had been established via the allocation in the West of Chichester SDL and Local Plan. The application met the specific requirements of Policy 15 and followed the broad parameters of the Masterplan. The proposal made efficient use of the site in a sustainable location and would contribute to the housing needs and employment provision of the Local Plan area. The proposal would deliver 30% affordable housing. The parameter plans and illustrative information demonstrated that it was possible to deliver the quantum of development in a manner that would be in keeping with the character of the area and would not have an impact on wider

landscape or heritage issues. The proposal would not cause wider harm to highway safety or recreational amenity. West Sussex County Council Highways had confirmed that subject to a Section 106 agreement, recommended conditions, and technical highway consents the access arrangements and off-site mitigation works were acceptable and there would be no severe transport impact. Although there was no technical requirement to deliver the southern access by Phase 1, as it was not necessary to make the development acceptable in planning terms, the PPA and DDT set out a commitment to deliver the southern access within the earlier timescale specified. The Planning Authority would work with the developer to enable the timetable to be delivered. When balancing all the economic and environmental considerations of the application the proposal was considered to be a sustainable form of development and therefore recommended for approval subject to a Section 106 agreement and conditions.

The following members of the public addressed the Committee:

Mrs L Goldsmith (statement read out by Mr P Evans) – West Sussex County Council Member;
Mr J Hunt (statement read out by Mrs M Evans) – West Sussex County Council Member;
Dr R Brownfield – Objector;
Mrs B Harper – Objector;
Mr R Childs – Objector;
Mr D Renton-Rose – Objector;
Mr A Pal – Objector;
Mrs S Sharp – Objector;
Prof T Rooth – Objector;
Mr S Mogridge (Linden Homes) – Applicant (at the Chairman’s discretion, the Committee was allowed to ask clarification questions);
Mr P Budge – Chichester District Council Member; and
Mrs C Apel – Chichester District Council Member.

Mr Plowman, the Ward member addressed the Committee. He expressed concern that the applicant had advised they were not able to bring forward the delivery of the southern access any further due to commercial and financial reasons and had now threatened that they would appeal the Committee’s decision if the application was not approved today. The reason for the deferral was to make this standalone application acceptable and he believed that there was no other option than refusal as it would produce a severe traffic problem resulting from an unprecedented single access for 750 dwellings on to a busy B road with two dangerous off-site junctions. The construction route was unacceptable and would have a daily rate of 200 vehicles, mostly travelling along Orchard Street. He was of the opinion that none of the information supplied gave any certainty to the delivery of the southern access, particularly as the agreements in place were not legally binding. If approved the application would put at risk the wellbeing and safety of 10,000 residents. He asked if officers could confirm the statement in the concept plan under 6.4.6 (key opportunities) that there were two unsafe junctions and whether the application would make these junctions worse or better. He asked what had happened to the possibility that Newlands Road would be used as an access to the site. He considered that the issue of a southern access had not been addressed despite the

Planning Inspector stating at the Local Plan inquiry that these matters were to be discussed during the planning application in relation to West of Chichester and the Planning Inspector had been explicit in advising that traffic issues should be discussed at the Masterplan stage, including cycle and pedestrian routes. Policy 7 of the Local Plan stated there should be a comprehensive Masterplan. He raised concern that the traffic issues had been deferred to the planning application stage. The traffic information for a single access construction traffic route was important material evidence and, therefore, he considered that Policy 15 (Section 12, paragraphs 32 and 33), was out of date under NPPF 11 and Section 38 (6) of the Planning and Compulsory Purchase Act. He asked if officers now agreed with his conclusions if this was material evidence submitted after the Local Plan. The application had been submitted prior to the adoption of the Local Plan and gave no opportunity for the modification of the Local Plan and Masterplan that could have arisen from discussions at these stages. The application was unacceptable without a guaranteed southern access in place and he considered that grounds for refusal of the application could be found on the basis of a severe traffic impact. He was of the opinion that officers must be able to carry out further negotiations with the applicant regarding the southern access that could take place before reaching an appeal stage. He hoped that if the application was refused that the applicant would submit a new application, incorporating a southern access, instead of going to appeal.

Officers replied to questions and comments made during the Committee's debate as follows:

Mr Frost advised with regard to whether or not further negotiations could continue with the applicant, that officers could continue to discuss possible options with the applicant in order to minimise the risk of an appeal. However, the application had been through a long process and both the members of the Committee and officers had tested and challenged the applicant in terms of bringing the delivery of the southern access any further forward who had advised that they were unable to do so and, therefore the Committee now needed to make a decision in respect of the application. With regard to allegations that the correct processes had not been followed, this was not the case. The site was an allocation in the Local Plan following its inclusion as a SDL and within it was supporting text under Policy 15, which set out how transport issues should be addressed. The allocation had been followed by a Concept Statement agreed by the Council's Cabinet, which set out the Council's expectations including design, layout, form and access arrangements that the masterplan would be expected to follow. The Masterplan, had been submitted about the same time as this application was received and, apart from the off-site highways works as they were still progressing at the time, the broad principles were endorsed by members of the Committee earlier this year, including the requirement for the southern access to be made available no later than the 751st dwelling. At the same time, this application was on-going and was the basis for providing detailed assessment of transport and other issues. It was the development process that followed the Local Plan making process. The officers clear position on the transport issues were that there no severe impacts that could be demonstrated. Therefore, the proper plan led processes had been followed in respect of this site so far. In terms of the viability of the development, this was a material planning consideration. Viability issues often occurred when an applicant considers a scheme was unlikely to come forward and, therefore wished to remove a requirement, such as affordable

housing, which would be tested by the District Valuer. However, this was not the case with this application and there was no suggestion that it was unviable. The SDL had been tested through the Community Infrastructure Levy examination to ensure it was viable. He was not able to comment on the discussions with the landowners regarding the southern access that the applicant had mentioned earlier in the meeting. He confirmed that it was not possible to place a condition on a permission requiring the provision of the southern access to reflect the timeline in the DDT as this would be unreasonable and unnecessary in the context of national planning guidance about the use of planning conditions and the use of obligations through Section 106 agreements. Although weaker, the only option was to apply an informative to any permission. There was a clear, serious and viable commitment from the developer to bring forward the provision of the southern access much earlier than originally proposed and from the Committee's perspective this should be seen as a significant achievement.

Miss Golding advised that with regard to an amendment requested to condition 37 (details in general conformity with Parameter Plans), it should be noted that these plans were general and as long as members understood there was some flexibility built into the parameter plans themselves then the amendment requested by members to amend "general conformity" to read "in conformity" with the parameter plans was acceptable.

Mr Smith explained that with regard to the test in paragraph 32 of the NPPF concerning severe transport impact and a comment made that 'severe' equated to a 30% increase, this percentage was not a recognised threshold within the NPPF. In fact, the bar set through planning appeal decisions in respect of severe impact from a development was very high. With regard to the sustainability of the site, the proposals were led by the Local Plan and it was not a standalone development. A series of wide ranging highway works would be required to be delivered. These improvements would be secured through the Section 106 agreement, and also financial contributions towards cycle routes to the north of the site, as well as through the CIL contribution, which would fund much larger projects such as the Northgate gyratory. Developer delivered works would be required specifically to mitigate the impact of the development to include junction improvements at Westgate, traffic calming along Sherborne Road, Westgate itself and a range of other improvements to support the development.

Mr Frost advised that officers had no further information about the land negotiations that had taken place between the applicant and landowners that had not already been shared. Following the Transport assessment the consultation response received from WSCC Highways in respect of the transport assessment, was that there would be no severe impact. In the absence of any evidence to the contrary, there were no grounds for the Committee to refuse on the grounds of an adverse impact on highway safety or capacity. With regard the implications of a refusal on highway grounds, the Council would need to try and identify a consultant who would be able to put forward evidence to defend such a case at any subsequent appeal, which would be in conflict with the LHA's stated position. He explained that he thought the Council would have difficulty in finding a consultant to represent the Council at an inquiry on this basis

Miss Bell provided further information concerning the issue of HGV construction traffic parking on roads outside the site during the hours when restricted from entering the site. Miss Bell referred to proposed conditions 7 (hours of construction) and 5 (construction and Environmental Management Plan), which had a clause that restricted HGV movements during school term times when pupils were arriving and leaving school. The standard times for HGV movements were 7.30am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday and at no times on Sunday or bank holidays. If any HGV construction traffic arrived too early to enter the site there would be times when these vehicles would wait elsewhere on the highway (as a condition would be in place preventing them from entering the site), which was difficult to prevent on a public highway when these vehicles were allowed to use the road network. The Construction Management Plan could require the applicant to look at the issues of earlier arrival but it was difficult for this to be an enforceable element of the condition. Mr Smith added that WSCC Highways had various powers to prevent these vehicles from waiting in areas if they were causing an obstruction. The Construction Management Plan would be the subject of further work to establish if it was possible to negotiate with the applicant to address this matter, such the provision of a holding/compound area if HGV's arrived and were not able to enter the site.

Miss Golding provided the following legal advice. It was the responsibility of the Committee to act reasonably. Members should ask themselves whether they had pursued the southern access point as far as they reasonably could. She pointed out that both the Council's Local Plan and the Masterplan required a second access to be in place by Phase 2. These documents gave certainty to residents and developers when drawing up proposals and land deals who would look to the requirements of these documents in doing so. It would be wholly unreasonable to go back on the Council's word and refuse at this stage. She advised the Committee that they should acknowledge what they had achieved in bringing the southern access forward. The Section 106 agreement was well advanced and the applicant had agreed to all of the proposed conditions. If the applicant submitted an appeal to the Planning Inspectorate all the benefits achieved would be taken out of the Council's hands. There would be no guarantee that that the Planning Inspector would, if the appeal was allowed, grant a permission that included all the Planning Authority's proposed conditions and the same provisions in the Section 106 agreement. The PPA would be frustrated if an appeal was lodged as the process would take over a year before a decision was made. Before making a decision, members should take into account that, in the officers' opinion, there was no technical evidence to support a refusal of the application and it was probable that costs would be awarded against the Council of a six figure number. She reminded members of a Government consultation earlier this year on a proposal not to award the new homes bonus for dwellings granted on appeal. If these regulations were made a refusal of the application would have far reaching financial consequences for the Council. These financial matters were material considerations in the determination of the application. However, it was right to take all of the matters into account and she advised the Committee that it was acknowledged that they had the best interests of the local residents at heart. Members should consider very carefully if a refusal of the application would, in the long term, be the best decision for the local residents.

Whilst some members considered that the provision of the southern access at an even earlier stage should be explored further, the majority of members considered that the proposed development was acceptable and, although a number still had concerns regarding the timetable for the provision of the southern access, in order to protect the requirements of the proposed PPA, conditions, informatives and Section 106 agreement, which the Planning Authority would lose control of, if determined by the Planning Inspector on the grant of an appeal, the application should be approved.

Members requested that the requirement for a construction traffic compound should be included in the Construction and Environmental Management Plan as part of the Section 106 agreement.

Defer for a Section 106 agreement then Permit with amended conditions 23 (electric vehicle re-charging points), 33 (playing fields – ground conditions) and 37 (details in conformity with Parameter Plans), one additional informative (delivery of southern access within a specified timescale) and an amendment to the Section 106 agreement to require an HGV ‘stopping/waiting’ compound within the Construction Management Plan agreed.

(Mr Hall and Mr Hixson left the meeting during an adjournment and did not return for the remainder of the meeting)

104 **SI/16/02036/FUL - Greenacres Nursery Keynor Lane Sidlesham PO20 7NG**

The following members of the public addressed the Committee:

Miss L Cookson – Supporter; and
Mrs E Lawrence - Agent

The following information was reported on the agenda update sheet relating to additional information from the agent including an officer assessment, a further consultation response from the Chichester District Council Economic Development Officer.

Miss Bell responded to members questions and comments. She referred to the importance of the Local Plan policies, which were up to date and, therefore, should not be disregarded. With regard to Policy 26, referred to by the agent in her address to the Committee, that related to existing business units, although the site was a horticultural use it was not classed as an existing B1 use. The site was situated in the countryside outside the local settlement area for which Policy 45 was relevant in relation to this application. Officers’ concern was that the proposal for four craft workshops, together with tourist accommodation and the level of parking required did not fit the small scale definition and there was no evidence that there an essential need for the development. Policy 32 related to horticultural development areas, and was not relevant as it was a positively worded policy relating to the types of development that could take place within the horticultural development area. The formalisation and regularisation of the proposed units was of concern and four two storey buildings with a central area of parking, although hidden to some extent, was of a scale that was out of keeping with the character of the area.

Mr Frost advised members that they should be convinced there were no alternative land uses or development uses more appropriate in this location before considering whether to permit the application. Local Plan and Government guidance stated that employment and tourist development should be located in a sustainable location. The proposal, therefore, needed to be essential, small scale and justified by local need. The view of officers and the District Council's Economic Development Service was that the applicant's case had not been properly presented at this time, but it was for the Committee to judge and make their decision for the right reasons. He confirmed that no pre-application advice had been sought in respect of the proposed development and, therefore, officers had not had the opportunity to discuss with the applicant the principle and amount of development, and required marketing of site that might result in a scheme that better accorded with the Local Plan policies. The application could be revisited to see if a more appropriate form of development could be achieved as there were issues that the applicant could re-consider to reduce the impact

Mr Whitty responded to a question concerning permitted development rights.

With regard to the application for a change of use, the view was expressed by some members that there was no demand for the horticultural use of these sites as they were no longer viable on such a small scale. They considered that there was though a need for office space and holiday lets in the area, which would support the economy and that the proposal would represent an improvement to a neglected site.

However a number of members were concerned by the formality of the layout and on a vote, the majority of members supported a proposal to defer the application for officer negotiations with the applicant in respect of the quantum of development and the layout.

Defer for officer negotiations with the applicant on the quantum of development and layout.

105 **FU/16/02649 - C&P Stables, West Ashling Road, Hambrook, Funtington, Chichester, West Sussex, PO18 8UD**

The following information was reported on the agenda update sheet relating to a revised plan replacing the site location plan on page 114, additional supporting information from the agent and a further officer assessment.

Recommendation to **Permit** agreed.

106 **SDNP/16/04030/FUL - Westfield Farm Sheepwash Elsted Midhurst West Sussex GU29 0LA**

Recommendation to **Permit** agreed.

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

The Committee considered and noted the schedule of planning appeals, court and policy matters (copy attached to the official minutes).

2. Decisions Received

SDNP/14/06285/MPO – Land at Laundry Cottage, Woodlea and Grass Mere, Horsham Road, Petworth: Mr Whitty and Mr Saunders drew members' attention to this decision in light of the viability issues concerning affordable housing.

108 **Exclusion of the Press and Public**

The meeting ended at 5.50 pm

CHAIRMAN

Date: