

Report to **Planning Committee**
Date **14 March 2018**
By **Head of Planning Services**
Local Authority **Chichester District Council**
Application No. **SDNP/17/06386/CND**
Applicant **Reside Developments Ltd**
Application **Demolition of four semi-detached houses and the erection five houses, consisting of three detached and two semi-detached dwellings, together with amended access, associated car parking and landscaping works - Variation of Condition 17 (Access Provision) of planning permission SDNP/15/06327/CND - amend wording to read: The vehicular access shall be completed as permitted before whichever occurs sooner 1) occupation of any unit or 2) before or coincidental with the completion of plots 3 and 4.**

Address **Land at Homes of Rest Graffham Street Graffham Petworth West Sussex GU28 0NW**

Recommendation: That the application be Approved for the reasons and subject to the conditions set out in paragraph 10 of this report.

Executive Summary

Reason for Committee Referral: Parish Objection – Officer Recommends Permit

Planning permission was originally granted for the development under reference SDNP/14/02844/FUL (subsequently amended by SDNP/15/06327/CND). Condition 17 requires revisions to the access to serve the development to be carried out prior to any other operation or development on the site. The applicant considers that this poses practical difficulties both logistically and interferes with the ability of existing occupants to access their properties during this phase of the development. The amendments to the condition are to enable the access works to be carried out at a later stage in the development.

The re-worded condition (at paragraph 9.1 of the main report) requires the permanent access to be re-positioned slightly further to the south of its present position, with the formation of the required splays as detailed on the highway consultants technical drawings. This must occur before occupation of any of the dwellings and before or coincidental with the substantial completion of Plots 3 and 4. This does not undermine the objectives of the original condition to provide safe and suitable access to occupiers of the new and existing dwellings and will enable the development to proceed in a more practical manner.

1.0 Site Description

- 1.1 The application site lies toward the southern end of Graffham village on the east side of the Street. It comprises the Homes of Rest, listed Grade II by Historic England in February 2011, two pairs of semi-detached bungalows, an area of gently sloping open space laid to grass to the south of the Homes of Rest and an area of informally kept ground extending northward to 1 and 2 Hillside. The site lies within the designated conservation area and within the South Downs National Park. It also lies within the Settlement Policy Area for Graffham.
- 1.2 Access is gained to the site from a single point of entry close to the Homes of Rest, at its northern end. The drive rises quickly from street level then forks, with the northern arm providing vehicular access to the dwellings fronting The Street and the northern part of the site, with the other arm running eastward past the north facade of the Home of Rest and returning southward for a short distance to service the existing pair of semi-detached dwellings.
- 1.3 The Homes of Rest remain occupied but the two pairs of bungalows are vacant and have been stripped out to render them uninhabitable.

2.0 Proposal

- 2.1 This application is submitted under section 73 of the Town and Country Planning Act 1990 and seeks to vary Condition 17 of SDNP/15/06327/CND (previously SDNP/14/02844/FUL) in order to amend the phasing for the construction of the main access to the development. Condition 17 is currently worded as follows:

"No development shall commence until the vehicular access has been constructed in accordance with the approved planning drawing and the Technical notes submitted by RGP Transport Planning and Infrastructure Consultants in support of the application.

Reason: In the interests of road safety."

The condition requires revisions to the access to serve the development to be carried out prior to any other operation or development on the site.

2.2 The applicant considers that this poses legal and practical difficulties in implementing this as the first operation and is therefore seeking to amend the condition to state:

"The vehicular access shall be completed as permitted before whichever occurs sooner: 1) occupation of any unit or 2) before or coincidental with the completion of Plots 3 and 4."

- 2.3 All other aspects of the proposed development are to remain as previously permitted.

3.0 Relevant Planning History

SDNP/14/02844/FUL - Demolition of four semi-detached houses and the erection five houses, consisting of three detached and two semi-detached dwellings,

together with amended access, associated car parking and landscaping works. PERMIT 02.06.2015

SDNP/15/06327/CND - Variation of Condition 1 of planning permission SDNP/14/02844/FUL - minor alterations to the approved parking arrangements, bin storage area and access. PERMIT 01.03.2016

SDNP/16/02102/DCOND - Discharge of condition 14 of planning permission SDNP/14/02844/FUL. REFUSED 01.07.2016

SDNP/16/03555/DCOND - Discharge of conditions 3, 5, 6, 7, 11, 13, 14 and 18 for permission SDNP/15/06327/CND. PERMIT 04.11.2016

SDNP/17/01339/DCOND - Discharge of condition 4 from planning permission SDNP/15/06327/CND (previously SDNP/14/02844/FUL) - sample panel. PERMIT 22.05.2017

SDNP/17/01403/DCOND - Discharge of condition 11 from SDNP/15/06327/CND (previously SDNP/14/02844/FUL) - landscaping scheme. PERMIT 22.05.2017

4.0 Consultations

Graffham Parish Council

We write to inform you that it was unanimously agreed that this application should be objected to in the strongest possible terms.

Condition 17 was imposed on the planning consent two and a half years ago. This application refers to the original reason for the condition being 'in the interest of public safety' whereas the condition actually states 'in the interests of road safety' both of course are of paramount importance but must bring into doubt the basis of the reasoning for the variation submitted by Boyer.

The Condition requires that the vehicular access is constructed in accordance with drawings and technical notes submitted by RGP Transport Planning and Infrastructure Consultants. RGP were commissioned by Reside Developments to provide advice and they submitted their report dated August 2014.

From the plans, prepared by RGP, attached to the consent it is clear that the new access drive can be constructed alongside the existing driveway thus minimising inconvenience to the residents and of course all road users. We are at a loss to understand Boyer's statement 'poses practical difficulties with regard to the delivery/storage of plant -' as the existing access is useable and ample storage is available on the site.

This application proposes that residents of the Homes of Rest, Chelsea Cottage and Hillside, the users of the current entranceway, their visitors and deliveries pass over the contractors' temporary access crossing the green and then through the building site whilst the development is in progress. That surely has no concern for public safety, road safety, contrary to Health and Safety requirements on building sites and potentially very dangerous. That cannot be countenanced. It has been our contention that the existing entrance would become even more

dangerous with the additional traffic from the new houses hence the reason for Condition 17 to move the entrance further south prior to the commencement of the development and it is clear that since the consent was granted the traffic past the site has increased due to activities at the school, food deliveries, online purchase deliveries and the like. That is before contractors start work with daily deliveries of materials and plant together with the transport for the workforce, It must be essential that the works proposed by RGP, advisers to the developers Reside are undertaken in accordance with the condition imposed by SDNP and this application can in no way be considered a 'de-minimis' amendment.

We request this application is refused and Condition 17 remains in its present form.

5.0 Representations

5.1 4 Third Party objections

No reason to allow a long delay to construction of vehicular access
Temporary access would be retained for longer than absolutely necessary
No variation should be permitted in the interests of road safety
Would object to any proposal preventing wheel washing facility, clean access for resident's at all times or disruption of traffic on the public highway.

5.2 Agent's supporting information

Current condition requires construction of new permanent access before commencement of development.

Development predicated on provision of a temporary access south of existing access which itself would comprise a material operation under section 56 of the Act.

Requirement to construct permanent access as approved poses practical difficulties regarding deliveries and storage of plant, materials and machinery given no other development (i.e. the temporary access) may be commenced until the revised access is completed.

Also practical need to allow continued access to properties that are dependent on existing access during construction phase of development. In practice, the strict requirements of the condition would leave resident's landlocked for a period of time.

Revised wording would ensure access would still be constructed ahead of occupation, thereby ensuring that public safety - the reason for the need for the revised position of the access and therefore the condition - will be maintained.

6.0 Planning Policy Context

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the **Chichester Local Plan First Review (1999)** and the following additional plan(s):

- SDNPA Partnership Management Plan 2014
- South Downs National Park Local Plan - Pre-Submission September 2017

The relevant policies to this application are set out in section 7, below.

National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage,
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the local community in pursuit of these purposes.

7.0 Planning Policy

Relevant Government Planning Policy and Guidance

- 7.1 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

National Planning Policy Framework (NPPF)

- 7.2 The following National Planning Policy Framework documents have been considered in the assessment of this application:

- NPPF - Achieving sustainable development
- NPPF06 - Delivering a wide choice of high quality homes
- NPPF04 - Promoting sustainable transport
- NPPF07 - Requiring good design
- NPPF11 - Conserving and enhancing the natural environment
- NPPF12 - Conserving and enhancing the historic environment

- 7.3 The following paragraphs of the NPPF are considered to be relevant to the determination of this application:

7, 14, 17, 32, 56, 115, 129, 132, 134.

- 7.4 It is also necessary to have regard to the statutory duties set out at Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 7.5 Guidance on the imposition and use of conditions (including their variation or amendment) is contained in the National Planning Practice Guidance (NPPG).

Chichester District Plan First Review 1999

- 7.5 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.

- BE1 - Settlement Policy Boundary
- BE4 - Buildings of Architectural or Historic Merit
- BE6 - Conservation Areas
- BE11 - New Development
- BE13 - Town Cramming
- TR6 - Highway Safety

The South Downs Local Plan – Pre-Submission 2017

- 7.6 The South Downs Local Plan: Pre-Submission Local Plan was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 26th September to 21st November 2017. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption. Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan referenced are currently afforded some weight.

- 7.7 The following policies of the South Downs National Park Local Plan - Pre-Submission September 2017 are relevant to this application:

- Core Policy SD1 - Sustainable Development
- Strategic Policy SD5 - Design
- Strategic Policy SD12 - Historic Environment
- Development Management Policy SD13 - Listed Buildings
- Development Management Policy SD15 - Conservation Areas
- Development Management Policy SD21 - Public Realm, Highway Design and Public Art

Partnership Management Plan

7.8 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

The following Policies and Outcomes are of particular relevance to this case:

- General Policy 1
- General Policy 9
- General Policy 50

8.0 Planning Assessment

8.1 The main issue with this application is considered to be whether the variation of Condition 17, to amend the stage during the construction process at which the revisions to the site access are made, would be prejudicial to the implementation of the development approved under reference SDNP/15/06327/CND in the context of the effect on the character and appearance of the area (including the setting of the listed building on the site), highways safety and residential amenity.

8.2 In determining this application, both the operation of the original condition and the objectives of the amended condition must be considered in the light of the six tests to be applied to the use of planning conditions as set out in the NPPF and NPPG. Paragraph 206 of the National Planning Policy Framework states

"Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

8.3 Condition 17 was imposed on SDNP/15/06327/CND (and also on the original planning permission reference SDNP/14/02844/FUL) to ensure that the development would be served by a safe and suitable means of access in the light of recommendations by the applicant's own highway consultant and advice from West Sussex County Council as Highway Authority. The condition states:

"No development shall commence until the vehicular access has been constructed in accordance with the approved planning drawing and the technical notes submitted by RGP Transport Planning and Infrastructure Consultants in support of the application"

The reason for the condition is *"In the interests of road safety"*

8.4 However, the current wording of the condition requires the revised access to be constructed before any other development takes place. In practice, the safe implementation of the development as a whole is predicated on the construction of

the temporary access to the site across the green to the south to service areas allocated for the site office and materials and plant and machinery storage already approved as part of a Construction Management Scheme (CMS). The applicant has identified that the construction of the temporary access and compound may itself comprise a material operation under s.56 of the Act (i.e. the commencement of development) and if carried out first would potentially place the developer in breach of condition 17 as currently worded. In this context, the condition might be considered not to satisfy the 6th test set out in paragraph 8.2 above in placing unreasonably onerous requirements on the developer.

- 8.5 If the temporary access and construction compound is not carried out and the revised access begun as the first operation in accordance with the current wording of the condition, this would then pose practical issues with regard to the safe delivery and storage of materials by construction vehicles in connection with the construction of this particular aspect of the development because of the horizontal and vertical alignment of the existing access relative to The Street and would leave residents landlocked for a period of time by preventing continued access to properties that depend on it.
- 8.6 The Parish Council state that the RGP plans suggest that the new access could be constructed alongside the existing access remains. This may be the case with respect to the bellmouth but the plans also show that realignment of the existing drive to meet up with the new access position would in practice rule out its continued use. The implications are that there would be a potential increase in on-street parking by residents who cannot access their properties during this work, along with contractors' vehicles working on this aspect of the development.
- 8.7 The suggested re-wording of the condition is a practical and pragmatic response to these issues. It does not seek to undermine the objectives of the condition as a whole, which is to provide a safe and suitable access to the completed development and for existing residents that will use the access. The development of the site is to be phased, with the new dwellings being built out from Plot 1 to the north through to Plot 5 in the south and so the wording of the new condition is designed to prevent any additional use of the existing access by the new dwellings unless the re-alignment works have been completed. This will ensure that the use of the existing access does not exceed current levels and the status quo in terms of highway safety is maintained.
- 8.8 A further benefit in phasing the re-alignment works to the existing access is that a degree of separation between existing residents and construction activity is maintained for a longer period. It is acknowledged that there will be a point when the realignment works take place when alternative access arrangements for existing residents would have to be made. Provided appropriate on-site management is in place and bearing in mind the majority of construction work in the northern part of the site is likely to have been completed at that stage, there is no reason why access to the existing properties via the temporary access cannot take place in a safe and controlled manner whilst the realigned access and drive is completed.
- 8.10 The issues raised by the Parish Council regarding the highway safety aspects of the access to service the new and existing development were fully considered when planning permission was granted in 2015. The approved revisions to the

access alignment are designed to take account of vehicular use of the Street, based on quantitative survey data commissioned for that purpose. The Highway Authority did not raise objection to the proposal at that time. It is acknowledged that there will be an increase in traffic movements along The Street during the construction phase of the development but this is a temporary situation common to most construction projects.

- 8.11 The proposed revision of the condition involves no physical alteration to the approved point of access to serve the development and therefore there are no additional implications with regard to the setting of the listed Homes of Rest or the character of the conservation area over and above those considered on the original application. The same is the case with respect to residential amenity. The necessary provision of the revised access will still take place before any increased use occurs and the amendment to the condition simply alters the timing of its construction for the reasons outlined above.

9.0 Conclusion

- 9.1 The re-worded condition 17 is considered to achieve the same highway safety objectives as the original condition intended to do while at the same time permitting the development to proceed in the most practical manner. The applicants suggested wording requires further drafting to secure the same level of precision as the original and the following is therefore proposed:

"The vehicular access shall be constructed and completed in accordance with the approved planning drawing and the Technical notes submitted by RGP Transport Planning and Infrastructure Consultants in support of the application and as permitted before whichever occurs sooner: 1) occupation of any unit or 2) before or coincidental with the completion of Plots 3 and 4.

Reason: To ensure the provision of a safe and suitable means of access to the development and existing users in the interests of road safety"

On this basis, the condition is considered to meet the six tests set out in paragraph 206 of the NPPF.

- 9.2 All other pre-commencement conditions have been successfully discharged and therefore there is no need to re-impose these but to simply ensure that the approved details are carried over by reference to the relevant DCOND decisions in new conditions. There is also the opportunity to reinforce existing controls over the length of time the temporary access/compound remains in situ and to secure its removal and the return of the green to its original condition at the earliest practical opportunity. In view of the proposed amendments to Condition 17 it is also proposed to add a further condition preventing the use of the existing access by construction or contractors' vehicles at any stage of the development.

10.0 Reason for Recommendation and Conditions

It is recommended that the application be Approved for the reasons and subject to the conditions set out below.

1. Time Limit

The development hereby permitted shall be begun before the expiration of three years from the date of planning permission reference SDNP/14/02844/FUL (i.e. by 02.06.2018)

Reason: In order to reflect the time limit imposed on SDNP/14/02844/FUL and to comply with Section 73(5)(a) of the Town and Country Planning Act 1990 (as amended) and Section 51(3) of the Planning and Compulsory Purchase Act 2004.

2. Approved Plans

The development hereby permitted shall be carried out in accordance with the plans approved on planning permission SDNP/14/02844/FUL (as amended by SDNP/15/06327/CND).

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No extensions/alterations

Notwithstanding the provisions of Schedule 2, Part 1 Classes A to C of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting or amending that Order) no additions to, or extensions or enlargements of, or alterations affecting the external appearance of, the building(s) hereby approved shall be made or erected without a grant of planning permission from the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the enlargements/alterations of the building(s) in the interests of the proper planning and amenities of the area.

4. No outbuildings or hardstandings

Notwithstanding the provisions of Schedule 2, Part 1 Classes E and F of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting or amending that Order) no building, or shed, greenhouse or other structure or hard surface, shall be erected or laid (as applicable) anywhere on the application site other than as shown on the plans hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over such structures in the interests of the amenities of the area.

5. No gates, walls fences, etc

Notwithstanding the provisions of Schedule 2, Part 2 Class 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting or amending that Order) no walls, fences, gates, or other means of enclosure shall be erected, or placed within the curtilage of any dwelling anywhere on the application site unless otherwise granted by the SDNPA by way of a planning application.

Reason: In the interests of visual amenity.

6. Landscape implementation

All planting, seeding or turfing comprised in the scheme of landscaping approved under reference SDNP/16/03555/DCOND and/or SDNP/17/01403/DCOND shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants, including any existing trees or hedgerows indicated as being retained in the approved scheme, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development.

7. Car parking provision

The use hereby permitted shall not be carried on until provision for car parking has been made within the site in accordance with details to be submitted to and approved by the SDNPA and such provision shall thereafter be retained at all times for their designated use.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways.

8. Provision of visibility splays

No part of the development shall be occupied until visibility splays of 2.0 metres by 22 metres to the north and 2.0 metres by 43.0 metres to the south have been provided at the proposed site vehicular access onto The Street in accordance with the approved planning drawings and the technical notes accompanying the application provided by RGP Transport Planning and Infrastructure Consultants. Once provided, the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above the adjoining carriageway level or as otherwise agreed.

Reasons: In the interests of road safety

9. Development in accordance with approved details

The development shall be carried out in accordance with the details approved in respect of materials and finishes, sample panel(s), site levels, the surface treatment of access roads, boundary treatment, scheme of landscaping, tree protection and Construction Method Statement as set out in the following documents:

SDNP/16/03555/DCOND

SDNP/17/01339/DCOND

SDNP/17/01403/DCOND

Reason: To secure harmonious development sympathetic to the character and appearance of the conservation area and to the setting of the listed building.

10. Timing of construction of revised access

The vehicular access shall be constructed and completed in accordance with the approved planning drawing and the Technical notes submitted by RGP Transport Planning and Infrastructure Consultants in support of the application and as permitted before whichever occurs sooner: 1) occupation of any unit or 2) before or coincidental with the completion of Plots 3 and 4.

Reason: To ensure the provision of a safe and suitable means of access to the development and existing users in the interests of road safety.

11. No use of existing access during construction

No construction or contractors vehicles shall use the existing access to enter the site at any time. All reasonable steps shall be taken by the developer (or their agent) to ensure that employees and sub-contractors do not park on the public highway and such persons use the temporary access and parking facilities at all times.

Reason: To safeguard existing residents' amenities and in the interests of road safety.

12. Timing for removal of temporary access and compound areas

No development shall be commenced until details of the timescale for the implementation and subsequent removal of the temporary access road and construction compound and the reinstatement of the open space to the same condition prior to the commencement of development. The timescale shall be coincident with the expected construction time of the development as a whole as referred to in the approved Construction Management Scheme under reference SDNP/16/03555/DCOND.

Reason: In the interests of the character and appearance of the conservation area and setting of the listed building.

11.0 Crime and Disorder Implications

11.1 It is considered that the proposal does not raise any crime and disorder implications.

12.0 Human Rights Implications

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

13.0 Equality Act 2010

13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

14.0 Proactive Working

14.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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Appendices Appendix 1 - Site Location Map
Appendix 2 – Plans Referred to in Consideration of this
Application

SDNPA Consultees Parish Council; neighbouring properties

Background Documents Planning permissions SDNP/14/02844/FUL;
SDNP/15/06327/CND
Discharge of Condition approvals SDNP/16/0355/DCOND;
SDNP/17/01339/DCOND; SDNP/17/01403/DCOND
Chichester District Local Plan First Review 1999; South
Downs Local Plan Pre-submission September 2017; South
Downs Management Plan; NPPF, NPPG

Appendix 1

Site Location Map



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Appendix 2 – Plans Referred to in Consideration of this Application

There were no plans submitted for this application.