



Minutes of the meeting of the **Planning Committee** held in Committee Rooms, East Pallant House on Thursday 20 October 2016 at 2.00 pm

**Members Present:** Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mr M Cullen, 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:** Mrs J Duncton

**In attendance by invitation:** Mr R O'Callaghan, Environment Manager, Environment Agency  
Mr D Smith, County Highways Manager, 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 M Allgrove (Planning Policy Conservation and Design Service Manager) and Mr S Ballard (Senior Environmental Protection Officer)

#### 94 **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.

#### 95 **Approval of Minutes**

##### **Resolved**

That the Minutes of the meeting held on 8 September 2016 be approved and signed by the Chairman as a correct record.

#### 96 **Urgent Items**

The Chairman advised that there were no urgent items.

#### 97 **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.

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.

98 **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 been deferred at the special meeting held on 8th 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.

Additional information was reported on the agenda update sheet relating to two third party representations and concerns raised regarding the delivery of the southern access; and the length of time available to comment on the new information.

Miss Bell reminded members of the details of the planning application for the first phase for a mixed use development on land to the West of Chichester in a Strategic Development Location (SDL). The site was an allocation in Policy 15 of the Chichester Local Plan that sought development for up to 1,600 homes, a local centre, six hectares of employment, informal and formal open space and a country park. The proposed Phase 1 scheme had been developed as part of the

Masterplan, endorsed by the Committee on 27 April 2016, for the whole SDL. With regard to the Framework Plan for the outline application, the application sought permission for the principle of development and access details only. Details relating to layout, scale, appearance and landscaping were not for consideration at this stage as they would be dealt with by a reserved matters application. The applicant was also seeking approval for six parameter plans, which covered land use, quantum of development, public open space and drainage, street hierarchy, foot and cycle paths, and storey heights of the buildings. The proposal included a vehicular access to the north of the site from Old Broyle Road, separate emergency access leading to the informal car park, and an additional access from Clay Lane. In addition to the Community Infrastructure Levy payment there would be a comprehensive package of on and off site infrastructure provision.

Since the deferral of the application a number of additional documents had been submitted as detailed in the report. These included a waste water technical note, an air quality technical note, development delivery timeline (DDT), planning performance agreement (PPA), a covering letter from WYG explaining the wider context of the DDT and PPA, letters from the developers, Linden Homes and Miller Homes, and a letter from the land agent on behalf of the land owners.

The DDT set out details of the delivery of the scheme for both Phase 1 and Phase 2. The Phase 1 infrastructure works, to include drainage works as well as the on and off site highways works, would begin during July 2018 following approval of the Phase 1 outline and reserved matters applications. The Phase 1 residential works would commence 2018/2019 and the occupation of the first dwelling was expected during the middle of 2019. An application for the reserved matters for Phase 2 was expected during spring 2019 for the construction work and the residential development. The construction of the southern access for construction traffic was anticipated to be completed and ready for use by Spring 2020 at the occupation of about 120 -125 dwellings, one year and nine months since the construction of Phase 1 was due to commence. The Phase 2 access and spine road would be ready for residential traffic by December 2020 at the occupation of 225 dwellings, two years and six months since the construction of Phase 1 was due to commence. The PPA outlined the key milestones and timelines to achieve completion of the development of the whole of the site and had been signed by both the applicant and Chichester District Council officers.

With regard to the second reason for deferral, Miss Bell advised that further investigation of the two foul drainage options had now taken place, i.e. either an on-site sewerage treatment works or a pumping station that would link into the pipeline to Tangmere waste water treatment works. Both options would require construction work to take place in the south west corner of the site. The applicant had submitted a waste water technical note outlining the two options. With regard to the onsite sewerage treatment works, the Environment Agency had now issued the necessary Environmental Permit. The applicant had confirmed in the technical note that although it was their preference they were not currently in a position to commit to the off-site option. However, discussions with Southern Water were at an advanced stage. The applicant had also confirmed that Albion Water would be the statutory sewerage provider for the on-site option and had provided information about the three sites operated by the company. Wessex Water, confirmed as the major

shareholder, had entered into a joint venture with the company. The technical note gave details of the specific processes regarding water quality, volume and odour for the on-site option. With regard to the off-site option, the note gave details about the proposed Southern Water pipeline to Tangmere. An environmental permit for the new pipeline, which would require planning permission, was expected to be issued by mid October 2017. The works were expected to be completed by December 2017. It was estimated by Southern Water that the new pipeline would be operational by September 2018 and ready prior to the first occupation of the development. Apart from payment phasing, all heads of terms had been agreed between the applicant and Southern Water.

Letters had been received from Linden Homes and Miller Homes advising of their commitment to deliver the whole of the strategic development as soon as possible.

Resulting from comments made by members during the discussion at the Committee meeting held on 8 September 2016, the applicant had produced a technical note on air quality. The note set out the air quality work undertaken with an explanation of the modelling software and process. It also provided information about the research carried out by Lancaster University and had concluded that the research did not have a clear parallel to influence and consider air quality in the United Kingdom. Mr Ballard, Chichester District Council Environmental Health Officer had confirmed he conferred with the findings of the technical note.

Following the views expressed by the Committee at the previous meeting, the routing agreement for construction HGVs would now be included in the Section 106 agreement instead of a condition. The Construction and Environment Management Plan had been amended to restrict HGVs during school hours and clarification that servicing vehicles would access the site via Clay Lane.

Ms Bell explained that condition 10 (foul water drainage scheme) had been amended to require the off-site pipeline option, if selected, to be in operational use by no more than 500 dwellings having been occupied.

The mixed use of the scheme had been established through the SDL and Local Plan meeting the broad requirements of Policy 15 and the Masterplan. The proposed development would assist in meeting the Council's required housing land supply and employment needs. The 30% affordable housing would be of mixed tenure and housing types. The parameter plans and illustrative information received demonstrated that the quantum of development on the site could be met, which would be in character with the area and not adversely impact heritage assets or the wider landscape setting. The development would not harm highway safety or residential amenity. West Sussex County Council Highways had confirmed that subject to a Section 106 agreement, conditions and technical details the access and off-site mitigation works were acceptable.

The following members of the public addressed the Committee:

Mrs J Meagher – Chichester Harbour Conservancy;  
Mrs L Goldsmith – West Sussex County Council Member;  
Mr J Hunt – West Sussex County Council Member;  
Dr R Brownfield – Objector;

Mrs M Owens – Objector;  
Mr R Childs – Objector;  
Mrs P Chatfield – Objector;  
Mrs J Whibley – Objector;  
Mrs S Sharp – Objector;  
Prof T Rooth – Objector;  
Mr M Hawthorne, Mr A Tildesley and Mr P Stewart;  
Mr P Budge – Chichester District Council Member; and  
Mrs C Apel – Chichester District Council Member.

Mr Plowman, the Ward member addressed the Committee and circulated a background traffic information document. He was of the view that following the deferral of the application, to address delivery of the southern access for this application, there had been no material change in the application. He advised that to mitigate the severe traffic problem that would result from a single access onto a busy B road with two dangerous junctions and an unacceptable construction route, via Orchard Street, certainty was required in respect of the provision of a southern access. With regard to the several documents received from the applicant stating that the southern access would be provided sooner, these were not legally binding. He referred to the Local Plan inquiry and the Planning Inspector's instruction to consider the traffic situation at the Masterplan stage. Policy 17 stated a comprehensive masterplan should be carried out but had been deferred to this planning application stage. He referred to the applicant's decision to submit the application in two phases as standalone applications and asked if the applications for both phases could have been submitted concurrently. The Environmental Impact Assessment (EIA) submitted had been for the entire site. The claim by the developer that the southern access could now be provided much earlier during Phase 1 suggested that there was no physical construction constraints. He queried the issue of not owning land that would be part of the Phase 2 application. If the provision of the southern access could not be made legally binding then, for the wellbeing and safety of children, the application should not be approved. He was concerned as to the proposed traffic calming and junction designs and questioned if they had been reassessed following the proposal to bring forward the southern access. He asked if any further air quality studies had been undertaken as he was concerned that during the early stages of construction, large earth moving HGV vehicles would use Orchard Street and therefore would not solve the air pollution issues.

Officers replied to points made during the committee's detailed debate as follows:

Miss Bell explained that there had been no material change to the application as a result of the proposed earlier provision of the southern access as the submitted plans remained the same. Legislation required the EIA to address the environmental impacts of the whole development and it was the applicant's choice to submit the application in two phases. The applicant was not required to be the owner of land but was required to complete a land ownership certificate with the planning application. She advised that there was no technical reason to require the provision of the southern access to be included in a Section 106 agreement or condition. With regard to the number of tankers required to remove sewerage, both the on-site and off-site options would require tankering of sewerage for up to the

occupation of 200 dwellings due to the low flow rates. This would equate to three tankers a day for 214 homes. The on-site option would then require a tanker to take away the solid material once a week. It was technically possible to operate the pipeline from the 200<sup>th</sup> occupation. If the pipeline was not up and running by the 200<sup>th</sup> occupation, condition 10 required tankering of the sewerage to take place, of which there would be between six to seven tankers per day, up to the 500<sup>th</sup> occupation. It was not possible to guarantee that no more housing would come forward on the site and any proposals would require a separate planning application.

Mr Ballard explained that with regard to the construction vehicles, up to 50 HGV movements and 75 operative movements would take place daily during the development period. He stated that not all these movements would impact on Orchard Street due to the A286 also being the prescribed route for construction vehicles from the north of Chichester. The anticipated operative movements took account of van sharing via the wider road network. With regard to air quality studies much monitoring had taken place across the City. Orchard Street was an air quality management area with monitoring being carried out at four sites along this street. Monitoring outside the school, in a worse case location, had taken place for four years and the results had shown pollution levels being very significantly below the objective value. The other three sites monitored in Orchard Street and other parts of the City had shown a downward trend in the concentrations of pollution for both background sites, those monitored away from traffic, and the sites monitored directly in the influence of traffic. The results for each class of vehicle in Orchard Street had been assessed so that the relative pollution contribution for each class could be understood. The contribution from the maximum number of 50 HGV construction movements for Orchard Street of 0.6 of a microgram would, according to the Institute of Air Quality Managers guidance, be of negligible impact and therefore, it would not be possible to sustain an objection to the planning application. Census information suggested there was a 20/80 (north/south) construction traffic split and a reasonable worse case to base the traffic modelling. He provided details of the air quality modelling exercise carried out by the applicant, which was in accordance with the current guidance. The background air quality concentrations used for the exercise were generous. The results of the exercise having been put through the modelling guidance indicated that the impact would be negligible and therefore it would be very difficult to refuse the application on air quality grounds.

Mr O'Callaghan advised that with regard to concerns expressed during the discussion about flood risk, this matter as it related to surface water was for West Sussex County Council as the lead local flood authority to advise on. With regard to the tanker movements and the activities that would take place for an on-site treatment works, there were no significant differences between this proposal and other on-site treatment works across the country. With regard to the amount of nitrogen that would be released into Chichester harbour, the assessments that had taken place had shown that the on-site option would reduce the amount of nitrogen released due to the site currently being used as farmland with nitrogen rich fertilizer. The Environment Agency had attached very stringent nitrogen standards to the permit, requiring levels to be below the current background levels. This would halve the amount of nitrogen released, which equated to a reduction of two tonnes over a period of a year. Both options would reduce the amount of nitrogen released.

Mr Smith provided information on the impact of bringing the provision of the southern access forward. He advised that there would be very little impact on the highways mitigation package, as a cumulative impact assessment had been carried out so that the impact of both Phase 1 and Phase 2 could be understood. The only change required would be to assess if the Norwich Road, Sherborne Road and Old Broyle Road junction would require a right hand turn. Early delivery of the southern access arrangements would require earlier works to take place at the Westgate roundabout and the severance of Cathedral Way due to safety issues concerning mini roundabouts. He confirmed there was a requirement for a routing agreement for HGV vehicles, recognised as being more than 3.5 tonnes, which dictated the routes to be used and could be enforced. The agreement also included the requirement for servicing and construction vehicles via Clay Lane from the A27. With regard to the effect of re-routing traffic, if required depending on the A27 improvement option chosen, it would be for Highways England and West Sussex County Council to mitigate the A27 improvements.

Mr Frost confirmed that the Council's Local Plan was not out of date, being only just over a year old. This site was key to the Local Plan Housing Strategy and Policy 15 allocated the overall strategic site and this application was in support of that overall development and therefore, in principle the Committee should be looking at ways to approve it. He reminded members that there was no requirement in the Plan for the delivery of the southern access during the delivery of Phase 1 before the provision of 751 dwellings and that this remained the case despite the work that had taken place by the applicants to provide it sooner. In technical highway terms, air quality terms and in terms of foul water disposal there was no basis to refuse the application on the basis of a lack of a southern access and the Planning Authority would struggle to defend a refusal on appeal. Since the previous meeting, officers and the applicant had looked very carefully at the information that could be provided to the Committee, to help provide assurance that the southern access could be provided earlier. He referred to the timeline, following concerns expressed that it was too long and that it provided no commitment for a southern access. If this application was permitted a reserved matters application would follow and if approved it would enable the infrastructure design and the physical works to commence on site, followed by the residential and other uses to be commenced. Officers had challenged the timings for all of the stages in the DDT but it should be acknowledged that complex planning applications and Section 106 agreements took time. A grant of outline planning permission would set the framework for negotiations to take place between the applicant and the landowners for phase 2. However these negotiations were private and were not a planning matter. If the land negotiations were successful, they would enable the Phase 2 outline application to be submitted, which if approved would be followed by reserved matters applications. The applicant intended to submit a reserved matters application specifically for the provision of the southern access road with the intention of speeding up its delivery for construction traffic. He acknowledged that this may not be what members would like but was clearly a significant improvement over the original timescale. With regard to some views expressed that the southern access should be provided before development began, such a requirement was beyond the remit and scope of the Committee. Members should ask themselves whether in light of the technical advice received there be grounds for refusal in relation to highway matters, air quality or foul water disposal and his advice to members was that there were no

such grounds for refusal. He appreciated that the provision of an earlier southern access was a commitment and not a legal requirement but what was being offered was for the timescale for its delivery to be brought forward considerably, which was more than could be required via the planning process. He advised that a compulsory purchase order was inappropriate at this stage as the applicant was looking to develop this site and had demonstrated their commitment to the site as a whole. With regard to the PPA, these were used regularly for large scale developments. It was not a legally binding agreement and officers were not suggesting that it would have the same bearing as a condition or legal agreement, but it was a project management tool with milestones that set out the applicant's intentions. It was not possible to require the provision of the southern access from the start of development to be included in a condition or requirement in the Section 106 agreement as conditions had to comply with national tests, to ensure they were necessary, reasonable and enforceable and such a requirement would fail these tests as there was no technical objection. However, an informative, which carried less weight than a condition, could be added advising that the Planning Authority required the development to be built in accordance with the PPA. He advised that there was not a ransom strip and that the developer's position was that an outline planning permission was required to enable the commencement of negotiations with the landowners in relation to the phase 2 land. Any significant delay in the development of this site would be an issue as this would affect the Council's Local Plan housing trajectory and could have an impact on the Council's five-year housing land supply.

Mr Allgrove provided advice on the effect that any delays would have on the implementation of the development. He confirmed that it was assumed that at least 1,250 homes would be built on this site by 2029, which was an increase from 1,000 and was agreed at the Local Plan examination stage, to assist in achieving more housing. This figure assumed that 125 homes per year would be built and was the maximum that could reasonably be expected to be delivered within that period of time. Therefore, there was very little time to achieve a later delivery and this would risk the Council not having a five-year housing land supply.

In response to concern expressed by members as to the certainty of a southern access and what would happen if the application was refused, Mr Frost referred to the discussions that had taken place with the applicant who had given as much reassurance as they could that they would be able to provide it. If the Committee were minded to defer consideration of the application again, he did not see how a second deferral would take the application further forward. If the applicant decided to appeal the application, a public inquiry would significantly elongate the process and the Planning Authority would lose control of the conditions and Section 106 agreement if it was allowed as they would be decided by the Planning Inspector. With regard to costs, if the Council did not have credible and robust reasons for refusal, the applicant could apply for costs on the grounds of unreasonable behaviour that the Council might be liable to pay.

The Chairman invited a representative (*Mr Tildesley*) for the applicant to address the Committee on concerns made by members as to the current status of the negotiations concerning the land required to deliver the southern access. He explained that these negotiations were a commercial consideration that was outside



of the planning domain. This development had been progressed over a number of years in line with the emerging Local Plan and the allocation for this site. The development followed a number of triggers, such as the provision of the southern access before occupation of the 751<sup>st</sup> dwelling and was the reason the application had been presented in its current form. They were trying to accommodate the desires and wishes of the local residents and the Committee by putting in place measures to move the application forward as quickly as possible. The Planning application had been submitted in line with the Council's Local Plan.

Miss Bell clarified the proposed use of the C class road, Clay Lane. It was a temporary access road to gain access to the playing fields and on site foul drainage solution only as there was no route across the agricultural land as part of the masterplan as the residential element was in the Phase 2 application. It would not be suitable in place of the proposed southern access due to the amount of traffic movements that would be required. Mr Smith added that the A259 leading from the A27 to Orchard Street was a designated lorry route network. Clay Lane had a much lower specification than the surrounding A class roads used as part of the lorry route.

Mr Smith responded to a comment made by a member about the severity of traffic, in particular concerning the Oving traffic lights on the A27 and accidents. A working group had been set up that had included local residents who felt that the increase in traffic had resulted in more accidents. However, on investigation of the statistics there had not been a year by year increase in accidents at the traffic lights junction, which was far less than the national average.

During the debate a number of concerns had been expressed by some members of the Committee that the southern access should be provided before work begun on Phase 1. They considered that if provided at the start, the second access would alleviate residents' concerns that a single access would have a severe impact resulting from the additional traffic. In particular construction traffic, which members felt would have a detrimental impact at the beginning of the development due to the number of earth moving vehicles and ground work machinery required. The majority of members supported a proposal to further defer the application for one month to negotiate the provision of the southern access before the development began.

### **Resolved**

**Defer** for one month for officers to negotiate with the applicant regarding delivery of the southern access route before development begins.

The meeting ended at 5.05 pm

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CHAIRMAN

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Date: