

# Chichester District Council

## Planning Committee

7 December 2016

### **Report into the implications of the Secretary of State's Direction in respect of the planning application by Oving Parish Council for the following proposal submitted under planning application reference O/16/01785/FUL:**

Removal of conditions 9 and 11 from planning permission O/11/05283/OUT which require the closure of the Oving Traffic Lights and to retain the junction as it currently functions.

#### **1. Contacts**

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#### **2. Recommendation**

**That the Committee note the contents of the Direction from the Secretary of State, Department for Transport and that in light of the Direction which directs indefinite non-approval of the planning application, refuse the application for the reasons set out in this report.**

#### **3. Background**

3.1 The Committee will recall that an application for planning permission was submitted by Oving Parish Council to remove the requirement of the original outline planning permission for the Shopwyke Lakes site to carry out a staged closure of the traffic lights at the junction of the A27 with Oving Road B2147 to all vehicular traffic with the exception of buses. The staged closure of the traffic lights is a requirement of conditions 9 and 11 of the Shopwyke Lakes outline planning permission for 500 dwellings as part of a package of highway measures agreed with the Highways Agency (now Highways England) as necessary to deliver the development. The Parish Council's planning application was referred to the Planning Committee on 14 September 2016 where the officer's recommendation to refuse permission was not agreed. The Committee report and minutes are attached.

3.2 The Planning Committee resolution was as follows:

Defer for referral to the Secretary of State and either:

- 1) In the absence of any direction issued by the Secretary of State to defer for a Section 106 Agreement then permit; or
- 2) Upon receipt of a direction from the Secretary of State, to comply with that direction.

- 3.3 Following referral to the Secretary of State the Council received a Direction on 24 October directing ‘...that the application be deferred indefinitely...’. Subsequent correspondence with the Department for Transport to clarify the meaning and implications of the wording in the Direction resulted in an amended Direction being sent to the Council on 14 November. The amended Direction which bears the same date as the original Direction is attached with the accompanying email.
- 3.4 The Committee is advised that the Direction is unchanged from that originally received with the exception that point 2 has changed ‘...*deferred indefinitely*...’ to ‘...*indefinite non-approval*...’. The letter then goes on to set out the reasons why the Secretary of State has directed the Council to not approve the application for an indefinite period.
- 3.5 The accompanying email to the Direction provides additional clarification. It confirms that the Council cannot approve the application. The Council may refuse the application or choose not to determine it. The Parish Council as applicant would have a right of appeal against either of these decisions but, notwithstanding this, the Secretary of State’s Direction still stands. The Council is advised in the email that unless there are other grounds the applicant may use outside of the reasons in the Direction, such an appeal has no prospect of succeeding.
- 3.6 With the amended Direction and clarifying email, officers consider the Direction and its intention is now clear. The ‘other grounds’ may refer to any other material considerations that may be relevant but it is hard to see what they might be. The application has now gone beyond its statutory 13 week period for determination and the applicant is entitled to a decision.
- 3.7 The officer’s recommendation is therefore that the application is refused. The recommended reason for refusal is detailed below and reflects where relevant the Secretary of State’s Direction:

‘In the absence of any technical highways assessment to the contrary including accurate junction modelling, robust analysis of transport distribution evidence and mitigation of the safety risks of an additional access onto the A27, the Local Planning Authority in consultation with Highways England as the strategic highway authority and WSCC as the local highway authority is not able to conclude that the proposal to remove conditions 9 and 11 from outline planning permission reference O/11/05283/OUT dated 09.08.2013 would not result in a severe adverse residual impact on the safety and efficient performance of the A27 SRN and on the operation of the local highway network. The proposal is therefore contrary to government policy in paragraph 32 of the NPPF and to policies 13 (Chichester Transport Strategy) and 39 (Transport, Accessibility and Parking) of the Chichester Local Plan: Key Policies 2014-2029’.

#### **4. Appendices**

- 4.1 Committee report 14.09.2016 and minutes (relevant extract)  
Secretary of State Department of Transport Direction and Amended Direction  
24.10.2016  
Email from Department of Transport to Jeremy Bushell 14.11.2016