

# Public Document Pack

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A meeting of **Planning Committee** will be held in Committee Rooms, East Pallant House on **Wednesday 6 March 2024 at 9.30 am**

MEMBERS: Mr C Todhunter (Chairman), Mr J Cross (Vice-Chairman), Mr R Bates, Mr D Betts, Mr R Briscoe, Mr J Brookes-Harmer, Ms B Burkhart, Mrs H Burton, Mrs D Johnson, Mr S Johnson, Mr H Potter, Ms S Quail and Mrs S Sharp

## SUPPLEMENT TO AGENDA

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## Agenda Update Sheet

Planning Committee  
Wednesday 6 March 2024

**ITEMS: 6, 7 and 8**

**APPLICATION NOs: SB/23/00024/OUT, SB/22/01903/OUT and NM/22/02191/OUT**

**COMMENT:**

The officer reports for Items 6, 7 and 8 state that the 'tilted balance' is not engaged.

Since finalising these reports further legal advice has been received which has indicated that the situation is not necessarily as clear cut as simply having a 4YHLS and therefore automatically applying a flat balance. This is because paragraph 11 d) of the NPPF requires an approach to decision making which is not singularly dependent on the ability to demonstrate a housing supply. Rather, a judgement should be made on a case by case basis, considering the most relevant policies. Paragraph 11d of the NPPF states "that where the policies that are the most important for determining the application are out-of-date, grant planning permission unless ... any adverse impact of doing so would significantly and demonstrably outweigh the benefits". In relation to these three applications, it could be argued that the 'most relevant policies' are out-of-date and therefore, despite having a 4YHLS, the tilted balance would still be engaged in decision making. Clearly this assessment as to what are the most important policies needs to be applied on a case by case basis, when considering applications.

On this basis, officers' advice is to go back to the legislation as set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states a decision on a planning application must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The NPPF represents up-to-date government planning policy and is a material consideration. The NPPF clearly sets out the government's objective of significantly boosting the supply of homes (para 60), which together with only a marginal 4YHLS (at 4.19 years) provides a very strong requirement to determine applications which deliver new homes.

Officers' view is therefore whilst it could be argued that these applications should be considered on the 'tilted balance', even if they were considered on the basis of a 'flat balance' under Section 38(6), the provision of new homes is an important material consideration that would outweigh any identified harm from the proposals. Therefore the officer recommendations for these items remain to Defer for S106 then Permit.

## **ITEM: 5**

**APPLICATION NO: WH/23/01855/FULEIA**

### **COMMENT:**

#### Westhampnett Parish Council

Summary of comments by Pro Vision on behalf of the Parish Council sent to Department of Transport (DoT) and copied to the District Council in respect of the separate application made to the DoT by the applicant for the diversion of public footpath no. 417.

'We write on behalf of Westhampnett Parish Council (WPC), to object to the proposed stopping up and diversion of a length of public footpath 417 from Stane Street to Westerton.

The reasons for objection can be summarised as:

- Loss of historic PRoW;
- The increase in length and protracted new route is less convenient for those using the PRoW to travel between Westhampnett/Maudlin and Westerton and Goodwood to the north, and as such, a potential disincentive to walking and using public transport for the local community.
- The proposed diversion is likely to reduce the rural views/character currently experienced by users of the PRoW, emphasising the impact of the industrial activity.
- As such, the re-routing would be harmful to the local community in both terms of its reduced utility and its reduced recreational value.

Please can these comments be taken into account in the consideration of the proposed order.'

#### Natural England

No Objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

#### Planning Comment

##### S.106 Agreement

With regard to the S.106 agreement a total financial contribution of £183,540 is to be provided towards delivery of the Local Cycling and Walking Infrastructure Plan (LCWIP) Route N. This includes an initial contribution of £153,090 for Phase 1 of the development and a further contribution of £30,450 for Phase 2. The sum has been agreed between the applicant and WSCC Highways in terms of the methodology to be used which has been calculated by comparing the proportion of RRMC staff journeys that would benefit from the upgrades with the proportion of journeys associated with future residents of Tangmere and Maudlin Farm that could benefit from the upgrades.

#### Amendment to condition:

12) No development in respect of the surface water drainage works for Phase 1 of the development shall commence until construction drawings of the surface water drainage

network, associated sustainable drainage components and flow control mechanisms and a construction method statement **including surface water management during the earthworks phase** have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall then be constructed in accordance with the agreed drawings, method statement, Flood Risk Assessment/Drainage Strategy (Ramboll, 07/02/2023, version 1.0) and Proposed Drainage Layout Sheet 1 and 2 (Arup, 19th January 2024, C01) and shall remain in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority. No alteration to the agreed drainage scheme shall occur without the prior written approval of the Local Planning Authority.

Reason: To ensure that the development achieves a high standard of sustainability and to comply with NPPF and Policy 42 in the Chichester Local Plan.

(Additional wording added in bold type)

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**ITEM: 6**

**APPLICATION NO: SB/23/00024/OUT**

**COMMENT:**

Planning Policy

The Southbourne Modified Neighbourhood Plan was 'made' (adopted) by Council on Tuesday 27 February and therefore it now has full weight.

Southbourne Broad Location for Development - emerging Chichester Local Plan Review Preferred Approach 2016-2025

The site is one of a number of sites within the initial area of search for the Southbourne Broad Location for Development (BLD), as identified by the Southbourne BLD Background Paper 2023, that could contribute to the delivery of up to 1,050 dwellings as part of the mixed-use development proposed by Policy A13 of the emerging Chichester Local Plan Review Preferred Approach 2016-2025.

Whilst the policy identifies that the site could therefore be suitable for development it is important to note that the initial area of search used by the Background Paper identifies sites totalling 3,762 dwellings and Policy A13 accordingly proposes that it will be for a future Site Allocations DPD to determine the final location of the BLD.

Whilst moderate weight is given to Policy A13, based on the stage of the emerging Local Plan and the extent of unresolved objection to the policy, it is not considered that the proposal would, in principle, prejudice the aims and intentions of Policy A13 for the BLD, should the emerging Local Plan be subsequently adopted, as the application includes site-specific infrastructure and would result in a CIL receipt to meet wider infrastructure needs.

For the avoidance of doubt, therefore, the Officer recommendation remains as set out within the Committee Report.

Railway Crossing contribution timing

For the avoidance of doubt the £370,000 financial contribution towards improvements to the Church or Penny Lane railway crossing would be required prior to commencement of development.

#### Third-party representations

Since the publication of the Officer Report four representations have been received objecting to the application. However, the representations are from third parties who had already commented and no new substantive issues were raised. In total therefore, as per the Report, 78 objections from 93 signatories were received.

#### Any further consultation responses

CDC Design Officer - Welcome the submission of the Parameter Plan and Design Principles document and consider that, in principle, a high-quality design can be achieved at the reserved matters stage.

#### Typographical Omissions

Pg.34 – Amend Para 3.4, bullet point 5 to state “Open market units would be broadly in accordance with a minimum of 2% 1-bed, **30%** 2-bed and 45% 3-bed; and

Pg.102 – Amend Para 8.97, bullet point 2 for the same omission (**30%** 2-bed) as above.

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#### **ITEM: 7**

**APPLICATION NO: SB/22/01903/OUT**

#### **COMMENT:**

##### Planning Policy

The Southbourne Modified Neighbourhood Plan was ‘made’ (adopted) by Council on Tuesday 27 February and therefore it now has full weight.

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#### **ITEM: 8**

**APPLICATION NO: NM/22/02191/OUT**

#### **COMMENT:**

##### WSCC Education

No change in approach [with regard to the availability of school places] since the review of projections [as reported to the November Committee] and based on the consultations

across Chichester.

### Planning Comment

With regard to the lighting issue associated with the Vitacress glasshouses at Runcton Nursery beyond the eastern site boundary, the Council's Environmental Protection Service has received 1 light complaint (in 2019) but this was found not to constitute a statutory nuisance. A light nuisance complaint is investigated by assessing the level of impact in and around the complainant's property. In line with the relevant legislation, the light would have to be causing a material interference with the ability to enjoy the comfort of the property. The threshold criteria for statutory nuisance is higher than annoyance associated with skyglow.

The Agenda Update Sheet attached to the November Committee report added 2 additional conditions to the recommendation making 29 in total. For completeness these additional 2 conditions are repeated here:

28) No dwelling hereby permitted shall be occupied until the off-site foul drainage infrastructure necessary to serve the development is operational and it is confirmed in writing by the sewerage undertaker that sufficient sewage capacity exists within the network to accommodate the development.

Reason: To ensure adequate provision for foul drainage and to prevent pollution of the environment in the interests of amenity and the proper planning of the area.

29) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. The development shall not be first occupied until;

- i) An investigation and risk assessment has been undertaken in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority, and
- ii) where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Any remediation shall be fully implemented in accordance with the approved scheme before the development is bought into use, and
- iii) a verification report for the remediation shall be submitted in writing to the Local Planning Authority before the development is first bought into use.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy

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### **ITEM: 11**

### **Government Consultation on 'Strengthening Planning Policy for Brownfield Development'**

### Appendix 1

Response to Questions 7 – 12 should read:

No comment as Chichester District Council is an authority where urban uplift will **not** apply.