



Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Wednesday 5 February 2020 at 9.30 am

Members Present: Mrs C Purnell (Chairman), Rev J H Bowden (Vice-Chairman), Mr R Briscoe, Mrs J Fowler, Mrs D Johnson, Mr G McAra, Mr S Oakley, Mr H Potter, Mr D Rodgers, Mrs S Sharp, Mr A Sutton and Mr P Wilding

Members not present: Mr G Barrett

In attendance by invitation:

Officers present: Mrs S Archer (Enforcement Manager), Miss N Golding (Principal Solicitor), Miss S Hurr (Democratic Services Officer), Mr D Power (Senior Planning Officer), Mrs F Stevens (Development Manager (Applications)) and Mr T Whitty (Divisional Manager for Development Management)

19 **Chairman's Announcements**

The Chairman welcomed everyone to the meeting and read out the emergency evacuation procedure.

Apologies for absence had been received from Mr Graeme Barrett.

20 **Approval of Minutes**

Resolved

That the minutes of the meeting held on 8 January be approved and signed by the Chairman with the amendments as requested by Rev. Bowden and Mr Oakley:

Item 6 - that with regards to the conclusion, that following words were added:

The reason for allowing the proposal was that the Committee considered that the public benefit of securing optimal use of the building outweighed the less than substantial harm that would arise as a result of the replacement windows, having regard also to the context of its surroundings, including the significant built form that exists around the application site.

Item 11 - that the recommendation to endorse included the full recommendation:

That the Planning Committee endorses the broad approach proposed for the development of the Tangmere Strategic Development Location (SDL) as set out in the draft Masterplan dated November 2019.

Item 12 - that the comment regarding the developers' progress is altered to:

Mr Whitty has received assurance from developers that they were not stalling proceedings.....'

Item 13 - that a comma was added to the following sentence between the word 'residential' and 'that':

Members further debated how such buildings are established as residential, that they were not liable for Community Infrastructure Levy, and the type of buildings deemed convertible.

21 **Urgent Items**

The Chairman reported that an urgent item would be considered under agenda item 11(b):

To consider the Council's response to a High Court challenge to a planning permission recently issued to 23 Southgate, Chichester (The Vestry).

22 **Declarations of Interests**

Mr Oakley declared a personal interest in respect of planning applications WW/19/02489/FUL, SI/19/02417/FUL and NM/19/00677/FUL as a member of West Sussex County Council.

Mrs Purnell declared a personal interest in respect of planning applications WW/19/02489/FUL, SI/19/02417/FUL and NM/19/00677/FUL as a member of West Sussex County Council.

23 **WW/19/02489/FUL - Thatch End, Seaward Drive, West Wittering, PO20 8LL**

Mrs Stevens introduced the application.

Additional information was provided on the agenda update sheet, listing further information from the agent regarding proposed sustainability measures, and an additional condition in relation to the submission of a detailed scheme regarding the provision of photovoltaic cells.

Mrs Stevens gave two further verbal updates, the first in relation to condition 4, to include a requirement for further information regarding the prevention of litter, and the second in relation to condition 15, which required the addition of the words 'until the' to be inserted between the words 'and' and 'car' in the first sentence to read;

'The dwellings hereby permitted shall not be occupied unless and until the car charging points.....'

The following members of the public addressed the Committee:

Mr Keith Martin – Parish Council
Mrs Kerry Simmons - Agent

The Chairman read a statement received from Mr Barrett to be read in his absence; 'I would therefore like to support the Parish Council and the Wells Farm Estate in objecting to this application on the grounds of over development and that it was contrary to the management policy'.

Members sought clarification regarding the number of proposed car charging points, whether the S106 requirement was due to recreational disturbance and if that would be in line with the latest guidance, what weight could be given the Village Design Statement, the importance of the boundary hedge and whether the bin and bike store would interfere with the provision of a continuous hedge, further information regarding the size of the plot, parking and turning space and what weight should be given to the extant planning permission. Mrs Stevens responded that the S106 recreational disturbance payment was in line with the 2020 guidance, which will change in April, with the new financial year. The bike and bin store could be relocated to provide a continuous hedge. The Village Design Statement carries some weight and is a material consideration, although it is not a document which has been through examination, Mrs Stevens therefore advised that the National Planning Policy Framework and the Local Plan would carry greater weight. The existing plot size was 31 metres in width, other nearby plots 16 to 18 metres in width and the proposed plan would provide one plot of just under 16 metres and the other 15.5 metres, there was a mix of plot sizes but narrower plots were more predominant. There was sufficient space for parking and turning and condition 15 would be amended to clarify a minimum of one car charging point per dwelling. The extant permission was due to expire imminently, however as planning permission had previously been granted, the previous granting of permission was also a material consideration. If there has been no significant change in the circumstances on site, or change in local policy or national policy, Mrs Stevens advised that it would not be reasonable to refuse permission. The existence of planning permission even if shortly due to lapse is still a material consideration that carries significant weight.

Members sought clarification regarding the views to the sea and Mrs Stevens confirmed that the current property is some distance from the sea and was not aware of any views to the sea from within the street scene.

Members sought further clarification regarding if the work had begun very recently, would the applicant be in the position of reapplying for permission. Mr Whitty responded that the difficulty the applicant would have in implementing the permission would be that a pre-commencement condition (drainage) had not yet been discharged, and therefore they could not rely on the permission being extant, and would not be able to fulfill the requirements of the condition in time, but the

permission had previously been granted under the same policies as currently exist and this in itself was a material consideration.

Members proposed and seconded that two conditions were added, the first to ensure that the boundary hedge was continuous and the bike and bin store moved away from the boundary, and the second to add to condition 15 that a minimum of one car charging point per dwelling was required, which was agreed by the Committee.

Members further commented that this was not a conservation area, and the Chairman sought clarification regarding whether solar-voltaic tiles should be included in the conditions, the weight that should be afforded to the policies of the company managing the estate and for further comments on the inclusion of conditions and amendments. Mr Whitty responded that condition 3 and the update sheet sought to secure the sustainability measures which the applicant would be required to submit. The management of the estate was a civil matter and a separate one for the applicant. Condition 15 requested details of the car charging points, which must be in line with the West Sussex County Council standards which included a year on year increase, so therefore was dependent upon when work took place on that condition, and it was not necessary to specify the number, but that a minimum requirement could be prescribed. Mr Whitty advised that regarding the bins, the committee should not seek to amend the design as a result of preference but should only seek a further condition if it considered the matter so important that planning permission would be refused. Mr Whitty added that condition 13 stated 'notwithstanding information provided, no part of the development hereby permitted shall be occupied until refuse and recycling storage facilities have been provided in accordance with the scheme...' and therefore suggested that officers make a note that the bins are placed adjacent to property and that could be included as part of that condition. In response to Members suggestion that a minimum of one charging point per dwelling was included, officers agreed this request would be appropriate.

Recommendation to **Permit** agreed with additional conditions and amendments as discussed.

24 **SI/19/02417/FUL - Chalk Lane Nursery, Chalk Lane, Sidlesham, PO20 7LW**

Mr Power introduced the application.

Further information was provided on the agenda update sheet detailing an additional condition in relation to the removal the existing building, and an amendment to an existing condition regarding legislation pertaining to not constructing a building or structure on the site without planning permission being granted.

Mr Power also drew the Committee's attention to the report and explained that an omission had occurred in regards to the recommendation which should read 'Recommendation to permit with S106'. As with the previous application, condition 8 required the addition of the words 'until the' to be inserted between the words 'and' and 'car' in the first sentence to read; 'The dwelling hereby permitted shall not be occupied unless and until the car charging points.....'

The following member of the public addressed the Committee:

Mr Adrian Hadland – Parish Council

Members commented upon the frustrations of parcels of land in unsustainable areas being used to construct dwellings and this application would not build on the original footprint of the current building, which would be demolished and not converted. Mr Whitty responded that he understood Members frustrations, but on a point of clarification in relation to class Q, the Parish Council have previously been, and will continue to be, consulted on Class Q applications and the current application should be considered having regard to the permission for the conversion of the existing building to a single dwelling, afforded by the Town and Country (General Permitted Development) Order. With regard to the Council's upcoming guidance on determining Class Q Prior Approvals, legislation could not be changed or policy created, the guidance was to ensure consistency in these situations was applied. Class Q related to whether a building was capable of conversion without structural intervention and this had been proved in this application and was a material consideration.

Members sought clarification regarding the materials to be used, whether the buildings were currently for agricultural use, that in the previous item on the agenda the conditions relating to hours of construction and deliveries were separate, but together on this application, whether there was a planting plan, whether the cross-hatched area was the amenity area and whether the building shown was on the 1990 permission and was used for storage. Members sought further clarification regarding whether there would be permitted development rights for another agricultural building, for which a further application for conversion may be forthcoming at a future date. Mr Power responded that the materials would include brick walls with a tiled roof, the buildings were considered to be in agricultural use when the class Q application was considered and during the officer's site visit for the current application there was nothing to indicate otherwise. The previous item on the agenda was within a built-up residential area and in this instance the location was rural and therefore there was less opportunity for disturbance during construction and therefore the condition in relation to hours of construction was less prescriptive. A landscaping plan was not submitted with this application and the hatched-area within the plan is a carry-over from the prior approval proposals. With regards to the 1990 permission noted within the planning history, this did not relate to the building that formed this application. Mr Whitty added that the effects of class Q permitted development rights were that if a proposal was implemented, an application for prior approval could not be sought for an additional agricultural building and planning permission would be required. However this application would not be enacting the prior approval, so it would not prevent an applicant from seeking prior approval for an agricultural building. The hatched area was not proposed as part of this application, and was shown as part of the prior approval and Mr Whitty added he considered that a landscaping requirement should be included within the conditions.

Members commented that the hours of work including demolition should be controlled and that a landscaping plan which should include boundary treatment, could be conditioned. Mr Whitty confirmed a condition could be added to control the hours of work, and with regards to a landscaping plan, suggested that the

recommended conditions could be amended to include the requirement for further details regarding boundary treatments.

Members sought advice regarding if the application was refused, what were the implications for an appeal. Mr Whitty advised that if the application was refused on the principle of development, and if the applicant chose to appeal, the Authority was likely to lose the appeal given that it was necessary to take account of the prior approval, and the application was effectively replacing one for another, with no net gain of dwellings on the site.

Members commented that the possibility of an appeal should not be a consideration, and each application should be decided upon on its own merits. Mr Whitty advised that the Committee must act reasonably and if minded to refuse permission, provide precise reasons for refusal based in policy. The Committee must also be mindful if at an appeal it was found the council acted unreasonably then it could be subject to an award of costs.

Members sought clarification regarding whether permitted development rights could be removed on specific areas of the site, and Mr Whitty confirmed a condition could be applied to land within the blue line provided on the plan, preventing further conversions under class Q at a future date.

Members sought advice as to whether refusing such applications had been tested and Mr Whitty advised that it had been tested on many occasions, across the country. That representations had been made to Government, regarding the loopholes associated with prior approvals, and the Authority had also provided feedback to the Local Government Association on this matter, during a recent visit. The only way in which to exercise frustrations was to lobby Government, but it could not be undertaken by refusing this application, case law suggested the Authority would lose on appeal.

Members proposed and seconded that a condition that class Q was removed from the site in future and that a separate condition was added regarding the times of construction.

The Chairman commented that conversions are not liable to Community infrastructure Levy (CIL) and Parish Councils were missing out on this opportunity, therefore with the new Local Plan, could CIL be introduced for conversions and for applications such as this. Mr Whitty confirmed that CIL regulations were set out in legislation, regarding when CIL can be collected, although the Authority sets the rates. Conversions were liable for CIL but developers were able to discount the existing floor area, so only additional floor-space was liable.

Recommendation to **Permit** agreed with the conditions as cited on the update sheet, add that the recommendation to permit is subject to S106 and to amend section 8 to include the words 'until the' and further/amended conditions:

- To confirm the hours of work is to be permitted
- To require a landscaping plan with boundary treatments

The Committee took a ten minute break

25 **NM/19/00677/FUL - South Mundham Farm, South Mundham Road, South Mundham, PO20 1LU**

Mr Power introduced the application.

Additional information was provided on the agenda update sheet a further condition regarding the removal of existing buildings on the site, and the summary of two letters of objection.

The following members of the public addressed the Committee:

Mr Timothy Russell – Parish Council
Mrs Gillian Nott – Objector
Mr Kris Mitra – Agent

Members sought clarification with regards to the number of proposed dwellings, the fall-back position relating to policy 46 and permitted development rights, vehicles movements likely to be generated in the absence of public transport, and whether landscaping would screen parked cars. Members sought further clarification regarding car charging points, demolition times, potential CIL requirements, potential to control internal alterations and further permitted development rights and the threshold for the requirement of affordable houses. Mr Power responded that the area on the plan within the red and blue lines were in the same ownership and with regards to the fall-back position, the site had two prior approvals, one for the Atcost shed to be converted to three dwellings and another for shed two to also be converted to three dwellings and under Class Q of the General Permitted Development Order (GPDO) there is a maximum of five dwellings allowed solely under Class Q and therefore technically only one of the prior approvals could be implemented, hence the reason for having the fall-back position for three dwellings for plot numbers 4, 5 and 6. This did not prevent six dwellings across the whole site to be permitted under two separate prior approvals. Plot's 1, 2 and 3 would be considered under policy 46 as conversions of existing buildings. Mr Power summarised that were six dwellings on the site for the application, however only three were considered as part of fall-back and three as a conversion. There are no controls over the highways movements for the existing use of the site. Mr Power confirmed that six dwellings for the site, was not considered a significant increase compared to the existing agricultural use. A landscaping plan was provided early in the application process and small changes have been made to the layout of the proposal, with a reduction in the amount of car parking in the middle of site, and specifically changes to plot 4, and the layout also showed significant planting to the south and north side of site, and therefore a condition has been included, due the changes. With regards to the charging points there would be one for each plot which could be confirmed by condition. The floor-space in comparison to the fall-back position is just considering the Atcost shed which was approximately 510 square metres and plots 4, 5 and 6 was approximately 530 square metres, approximately 177 per plot, therefore there was a small but not significant increase. Condition 20 would not control internal alteration but would control new windows, and given the eaves of the roof, it would not be possible to build another floor. Mr

Power confirmed that the threshold for affordable housing was ten dwellings, but the fall-back is for three dwellings therefore, there would be only three dwellings in relation to the requirement for affordable housing.

Mr Whitty clarified that with regards to the floor-space of the Atcost shed, permitted development rights allow conversion of 465 square metres, therefore the difference is greater but consideration could be given to the better layout, form and sustainability measures that would come with a new build. In terms of class Q, if the class Q permission were implemented, instead of the current application, this would prevent further class Q conversions, therefore Mr Whitty advised the addition of a condition to prevent a further 'class Q conversions'. Mr Whitty further clarified that in regard to the two buildings, at the time the legislation allowed class Q restricted conversion to three dwellings, which has now been expanded to five dwellings. Whilst each of the buildings could gain prior approval as an alternative to another, the GPDO would only afford permission for the implementation of conversion of up to 3 units (or 5 if subsequently granted prior approval). It was important that the restriction was not by-passed.

Members sought further clarification regarding the CIL regulations and Mr Whitty responded that the regulations allowed a discount for any building on the site, but in regards to this application, there was more than 530 square metres of buildings to be demolished which could all likely be discounted and therefore there would potentially be no CIL requirement.

Members sought further clarification regarding the potential to restrict the creation of further floor-space by creating an upper floor. Mr Whitty confirmed that condition 20 would prevent the insertion of new windows and habitable floor space would be difficult to provide given the eaves levels as it would be unlikely to meet building regulations, but a further condition could be added to ensure a further floor was not created.

Resolved

Recommendation to **Permit** agreed with the conditions as cited on the update sheet, and further/amended conditions:

- To confirm the hours of construction work to be permitted
- To confirm that one car charging point per dwelling was required
- To require a landscaping plan with a maximum number of trees to screen the car parking area
- To confirm that the amount of permitted habitable floor space
- To remove class Q within the areas highlighted on the plans.

26 **Schedule of Outstanding Contraventions**

Mrs Archer confirmed that the schedule gave the CDC figures of 163 and 89 totalling 252, which should be corrected to 75 and 28 totalling 103 regarding 'The number of 'On Hand' cases awaiting compliance with either an EN or the outcome of an appeal/application'.

Members sought an update on progress regarding WE/16/00191/CONCOU and Mrs Archer confirmed that the owners would be prosecuted for failure to comply with the notice.

Mrs Archer confirmed that further action was being taken regarding 0/17/00074/CONENF.

Members sought an update regarding HART/SDNP/18/00587/TPO in relation to evidence not being available to demonstrate that the notice had not been complied with. Mrs Archer responded that it had been difficult to establish who was in occupation at the property and a further visit would be taking place.

Members sought clarification regarding B1/15/0039/CONSH and Mrs Archer confirmed that a court hearing was currently awaited before an injunction was obtained, and the issue of additional pitches were being progressed separately.

Members sought clarification with regards to PS/13/00015/CONAGR and the integrity of the lagoon and Mrs Archer responded the Environment Agency which held responsibility in relation to this matter, had issued its own notice. Mr Whitty added that the Authority had also established a multi-agency response in the event of a spillage, and that there was currently an issue with rain gathering in the plastic covering, but this was being attended to by the owners.

Members also sought clarification regarding progress in relation to WE/17/00403/CONENG as the owner was not currently complying and Mrs Archer responded that a review of the situation would be taking place on site.

Members also sought clarification regarding progress in relation to WE/19/00217/CONCOU and Mrs Archer confirmed that the application was yet to be determined and therefore the matter could not be progressed until this had taken place.

27 Chichester District Council, Schedule of Planning Appeals, Court and Policy Matters, Between 10 December 2019 and 15 January 2020

Miss Golding confirmed that the additional court matter would be discussed as a part 2 matter.

28 South Downs National Park, Schedule of Planning Appeals, Court and Policy Matters, Between 10 December 2019 and 15 January 2020

Mr Whitty drew the Committee's attention to SDNP/18/03665/HOUS and SDNPA/18/03666/LIS which were listed as 'Dismissed' in error and should both read 'Appeal Allowed'.

29 Exclusion of the Press and Public

RESOLVED

That in accordance with Section 100A of the Local Government Act 1972 the public and the press be excluded from the meeting during consideration of the following item on the Agenda for the reason that it was likely in view of the nature of the business to be transacted that there would be disclosure to the public of “exempt information” being information of the nature described in Paragraph 7 (Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime) of Part I of Schedule 12A to the Act and the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

30 **Consideration of late item: 23 Southgate, Chichester (The Vestry). To consider the Council's response to a High Court challenge to a planning permission recently issued.**

A discussion took place and it was resolved:

Not to contest the claim, and to authorise the Authority’s Senior Solicitor to sign a consent order to agree to the planning permission dated 9th December 2019, being quashed by the court.

The meeting ended at 12.20 pm

CHAIRMAN

Date: