



Minutes of the meeting of the **Planning Committee** held virtually on Wednesday 7 October 2020 at 9.30 am

Members Present: Mrs C Purnell (Chairman), Rev J H Bowden (Vice-Chairman), Mr G Barrett, 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:

In attendance by invitation:

Officers present: Miss J Bell (Development Manager (Majors and Business)), Miss N Golding (Principal Solicitor), Miss S Hurr (Democratic Services Officer), Mr M Mew (Principal Planning Officer), Mrs F Stevens (Development Manager (Applications)), Miss K Taylor (Senior Planning Officer) and Mr T Whitty (Divisional Manager for Development Management)

137 Chair's Announcements

The Chairman welcomed everyone present to the virtual meeting.

138 Approval of Minutes

RESOLVED

That the minutes of 9 September 2020, and the minutes of 28 September 2020 be approved.

139 Urgent Items

There were no urgent items.

140 Declarations of Interests

Mr Barrett declared a personal interest in respect of planning application CH/20/00412/OUT as Chichester District Council appointee of Chichester Harbour Conservancy.

Mr Oakley declared a person interest in respect of planning applications CH/20/00412/OUT and EWB/19/00431/ARG as a Member of West Sussex County Council.

Mrs Purnell declared a person interest in respect of planning applications CH/20/00412/OUT and EWB/19/00431/ARG as a Member of West Sussex County Council.

141 CH/20/00412/OUT - Land Off Broad Road, Broad Road, Hambrook, PO18 8RF

Miss Taylor presented the item to Members.

The Committee received the following speakers:

Roger Gowlett – Parish Council
Stephen Johnson – Objector
Jane Towers – Objector
Andrew Kerry-Bedell – Objector
Jeremy Higgins – Agent

Officers responded to Member's comments and questions. Miss Taylor confirmed that the site was listed in the Housing and Economic Land Availability Assessment (HELAA) as suitable for development. With regards to applying the 'tilted balance' assessment within the National Planning Policy Framework (NPPF), para11 referred to the application of decisions, and section d stated 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole', and therefore the entirety of the NPPF must be considered. Miss Taylor also confirmed that officers were satisfied that the access to the field beyond the proposed development, was sufficient.

With regards to the proportion of houses within the Nutbourne East settlement boundary which were at market level and those which were affordable if the proposed 35 houses remained affordable, Miss Bell responded that officers did not currently have those figures, but added that housing officers had confirmed a need existed within the area for affordable housing for first time buyers.

On the matter of reasons to refuse the recommendation not to contest the appeal, Mr Whitty confirmed Members had cited reasons which were grounded in material planning considerations. With regards to the tilted balance, the consideration was whether the lack of a five year housing land supply would outweigh any parts of the NPPF guidance. Officers acknowledged that the site did not meet the criteria with the NPPF for an Entry Level Exception Site (ELES) as it was 0.3 of a hectare larger than the policy set out and 2.2% larger in terms of the assessment against the settlement of Nutbourne East, but Mr Whitty advised that a Planning Inspector may plot the settlement boundary against how housing functioned rather a local authority drawn settlement boundary, but this could provide a valid reason against the tilted balance. The NPPF set the threshold to ensure communities were not overwhelmed by exception sites but it would then be necessary to identify the concern within the policy and articulate the resultant harm or implications.

With regards to the field access, Mr Whitty confirmed officers were not aware of other access and currently the proposal appeared to be via the site, but iterated officers did not have concerns related to this.

Mr Whitty confirmed that nitrates which would feed into the harbour would be dealt with by way of off-setting, by taking an area used for cereal production out of use

and then plant with woodland. Whilst the proposed mitigation land would be in Hampshire and would not run-off into the same tributary of Chichester Harbour as that of Thornham Waste Water Treatment Works, it nonetheless fed into the harbour as a whole and as such officers were satisfied that the impact would be mitigated. With regards to recreational disturbance, the Council would take the standard approach of taking a contribution by way of mitigation. Mr Whitty also advised that in relation to foul discharge, Southern Water was a statutory body and as such the Council had no control over it, and therefore this matter could not be utilised as a reason for refusal. Southern Water had been consulted with, they were satisfied and their comments were included within the report.

On the matter of affordable housing, Mr Whitty confirmed the housing officer was satisfied with the provision of affordable housing within the site, but with regards to the inability to obtain mortgages for the properties resulting in the whole site becoming affordable rented and the impact on the mix of housing, he advised that there was not as yet, evidence to suggest this outcome.

In a response to a request for clarification Mr Whitty confirmed the description of the development could be amended to stipulate 'up to' 35 dwellings, to allow for a reduced number at reserved matters stage, should an appropriate layout not be achievable for that number of units. Mr Whitty further responded that the developer had not put forward that description, and it had not been requested as officers believed this number of properties was achievable. Mr Whitty went on to confirm that there were difficulties in obtaining mortgages for nine units to the west of the site, and should Members have concerns that a similar situation would arise for this site, that could provide grounds to contest the appeal. However, should the applicant provide compelling evidence that mortgages could be obtained, that would have an impact on the use of such argument, at an appeal.

Mr Whitty confirmed that the recommendation not to contest the appeal was not based on the potential cost of an appeal, but whether it could be contested and on what grounds, which must be robust. On the issue of nitrates, the Council would look to control that matter and others by way of a S106 agreement.

Miss Bell clarified discussions which had taken place with Natural England and confirmed that the site drained into the Thornham channel of the Chichester harbour which was adjacent to the Emsworth channel. The land which the applicant was considering using for the purposes of off-setting was in Rowlands Castle, north of Emsworth. Natural England were taking approaches on a number of sites, for such objective, on land which had changed from agriculture to planted woodlands. These would be retained in perpetuity (80-120 years) and be secured via a S106 agreement. Miss Bell also drew Members attention to relevant sections within the report and also further to information regarding an ELES and first time buyers.

On the matter of parking spaces Miss Bell confirmed that the number of proposed units had decreased from an earlier application and the highway authority considered that an appropriate number of parking spaces could now be achieved.

Mr Whitty advised members to not include sustainability as a reason to contest the appeal due to the availability of bus routes and the rail station, and therefore this

was unlikely to be acceptable to a Planning Inspector. Mr Whitty further advised that from the debate, there were two main concerns which were justifiable in regards to planning. The first was related to the tilted balance and whether the scheme should be contested on the basis that it exceeded the hectarage and percentage in relation to the nearby settlement. With regards to demonstrating harm, and the lack of a five year housing land supply, that the benefit of providing housing would be outweighed by the social and infrastructure disadvantages which would overwhelm the settlement. The second related the pylons, and their impact on the previous site which resulted in the inability to obtain mortgages. This could reoccur, on the proposed site, which would lead to a change of tenure again to social rented. This would then provide an unrelieved cluster which would not meet the housing mix required. With regards to health issues related to the proximity of the pylons, Mr Whitty advised that there was a lack of planning policy and evidence on this matter.

With regards to flooding Mr Whitty advised this was likely to relate only to surface water and could not be defended on appeal. Mr Whitty also advised that in regards to the comments from Natural England, the Inspectorate would have to determine there was suitable mitigation for nitrates, and a S106 would provide assurance.

In a vote Members **overturned** the recommendation not to contest the appeal.

Cllr Bowden proposed that the reasons for refusal were based on two concerns outlined by Mr Whitty regarding exceeding the hectarage and percentage as detailed for a ELES site in the NPPF, and the proximity of the pylons potentially leading to the inability to obtain mortgages for the units, resulting in an unrelieved cluster of social rented properties and not the housing mix required. A third reason was recommended by officers that a S106 was required to secure the Heads of Terms set out in the committee agenda and an appropriate assessment would need to be passed in consultation with Natural England, this was agreed by Cllr Bowden. This proposal was seconded by Cllr Briscoe.

In a vote Members **Agreed** the reasons to overturn the officer recommendation and to contest the appeal.

Members took a ten minute break.

142 **EWB/19/00431/AGR - Hundredsteddle Farm, Hundredsteddle Lane, Birdham, Chichester, West Sussex, PO20 7BL**

Mr Mew presented the item to Members and drew attention to the agenda update sheet. Mr Mew also provided a verbal report explaining that further information had been received on behalf of the applicant regarding clarification on the access arrangements and swept path analysis, and a further third party comment had been received regarding the need/lack of need for the building.

The Committee received the following speakers:

Brian Reeves – Parish Council
Graeme Maycock – Objector
Dermot McCaffery – Objector

Jill Sutcliffe – Objector
Rachel Strange – Applicant

Mr Whitty responded to Members questions and comments. Mr Whitty began by drawing Members attention to the three reasons for refusal detailed on the update, explaining the first two consisted of the legal views of officers, that this development did not constitute permitted development. The third reason related to concerns regarding the impact on the highway. Mr Whitty advised that if the third issue on balance was considered to be acceptable by the Committee due to its rural location the first two were legal opinion and should the application be granted would be open to legal challenge. Miss Golding added the first reason for refusal related to a potential danger to highway users and if Members did not consider the application would result in a danger to highway users, the first reason for refusal would fall away. However the second reason for refusal stated that if the works were within 25 metres of a metalled classified road, the application would not sit within permitted development legislation. Miss Golding advised that if the Committee were minded to permit the application, the correct course of action would be to invite a full application.

Mr Mew explained that the building itself was not a reason for refusal, but it was the proximity of the whole development to the classified road. The third reason for refusal cited insufficient information to demonstrate that the siting of the proposal would not result in a material intensification of use to the access and there was some doubt in relation to the plant business and the movement this may create in terms of the use of the building. Mr Mew further responded that the application was deferred in March this year. It had taken this time to reach the current position and officers had considered the application carefully, balancing the importance of farming and food production with what had been proposed, and taking the legal opinions into account had led to the recommendation before the Committee. The need for the building was recognised and a planning application could be brought forward and highway improvement works undertaken to address the issues.

Mr Mew confirmed officers did not have the details regarding the stopping distance for standing vehicle and in relation to further signage, the highway authority had reservations in terms of how effective that may be.

Mr Mew advised the need to consider the development as a whole under the current proposal, and there was doubt in terms of what the building would facilitate with altering the access under the prior approval. Mr Whitty added it would be perverse for applicants of prior approval to leave out elements which were not prior approval, but would realistically be required.

Mr Whitty reminded Members that this was not a planning application, but a prior approval application, although in the second stage, therefore finite distances were important with regards to a legal status and whether it could be taken under General Permitted Development Order (GPDO). If the development was within 25 metres of the metalled road it would fail the test, which was a legal determination. Mr Whitty added the test applied in the NPPF was not one of safety but function and the test in the GPDO related to safety.

In a vote Members agreed the recommendation.

Recommendation to **Refuse**.

143 **Chichester District Council Schedule of Planning Appeals, Court and Policy Matters**

On the matter of whether appeal reference 20/00950/FUL, Field West of Beachlands Nursery, Newells Lane, West Ashling would be taken to hearing, Mr Whitty confirmed a request would be made.

144 **South Downs National Park, Schedule of Planning Appeals, Court and Policy Matters**

Members agreed to note this item.

145 **Consideration of any late items as follows:**

There were no late items.

146 **Exclusion of the Press and Public**

There were no part two items.

The meeting ended at 12.48 pm

CHAIRMAN

Date: