



Minutes of the meeting of the **Planning Committee** held in Committee Rooms, East Pallant House on Wednesday 5 October 2022 at 9.30 am

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

Members not present: Mrs J Fowler and Mr G Barrett

In attendance by invitation:

Officers present: Miss J Bell (Development Manager (Majors and Business)), Miss N Golding (Principal Solicitor), Mr M Mew (Principal Planning Officer), Mrs F Stevens (Divisional Manger for Planning), Mr T Day (Environmental Coordinator), Miss K Taylor (Senior Planning Officer), Mrs F Baker (Democratic Services Officer), Mr Belderson (Planning Link Officer, South Downs National Park) and Mr Kennedy (Environmental Manager, PUSH Partnership)

1 **Chairman's Announcements**

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

Apologies were received from Cllr Barrett and Cllr Fowler.

2 **Approval of Minutes**

Cllr Oakley raised the following amendments;

- Page 4, 5th paragraph up; 'it' should be replaced with if
- Page 6, 2nd paragraph down; insert the word 'of' after the word use.

He also raised concern that the minutes did not clearly identify the additional conditions agreed for Agenda Item 7. Ms Stevens acknowledged the concern and agreed further clarity would be given going forward.

Following a vote, the minutes of the meeting held on 7 September were received as a true and accurate record.

3 **Urgent Items**

There were no urgent items.

4 **Declarations of Interests**

Mrs Johnson declared a personal interest in;

- Agenda Item 5 – BI/22/01497/FUL – as a member of West Sussex County Council and the WSCC external appointment to the Chichester Harbour Conservancy
- Agenda Item 6 – BI/22/01498/FUL – as a member of West Sussex County Council and the WSCC external appointment to the Chichester Harbour Conservancy
- Agenda Item 7 – LX/21/02849/FUL – as a member of West Sussex County Council

Mr Oakley declared a personal interest in;

- Agenda Item 5 – BI/22/01497/FUL – as a member of West Sussex County Council
- Agenda Item 6 – BI/22/01498/FUL – as a member of West Sussex County Council
- Agenda Item 7 – LX/21/02849/FUL – as a member of West Sussex County Council

Mrs Sharp declared a personal interest in;

- Agenda Item 5 – BI/22/01497/FUL – as a member of West Sussex County Council
- Agenda Item 6 – BI/22/01498/FUL – as a member of West Sussex County Council and as a member of Chichester Cycle Forum
- Agenda Item 7 – LX/21/02849/FUL – as a member of West Sussex County Council

As a registered speaker Cllr Moss declared a personal interest in;

- Agenda Item 5 – BI/22/01497/FUL – as the CDC external appointment to the Chichester Harbour Conservancy
- Agenda Item 6 – BI/22/01498/FUL – as the CDC external appointment to the Chichester Harbour Conservancy

5 **BI/22/01497/FUL - Premier Marinas (west car park), Chichester Marina, Birdham, PO20 7EJ**

Miss Taylor presented the report to Committee. She drew the Committee's attention to the Agenda Update sheet, which confirmed the applicant as Premier Marina's Ltd and; included an additional consultation response from West Sussex County Council Public Rights of Way, who had no objection to the application.

Miss Taylor highlighted the site location and confirmed that it was located within Birdham Parish but outside the settlement boundary. The site was located within the Chichester Harbour AONB.

Miss Taylor went over what the application proposed and detailed the proposed appearance and dimension of the proposed payment station. She confirmed that officers believed the size and scale was acceptable and would not cause any harm to the surrounding AONB.

The public right of ways (PROW) which run alongside the site were highlighted to the Committee, Miss Taylor confirmed the installation would not conflict with them in anyway and reiterated that no objection had been received from WSCC Rights of Way Officers.

Miss Taylor advised the Committee that parking arrangements at the site were not part of the planning application and were a private matter which would be addressed by the Management Company. However, in response to concerns raised by both Apuldram and Birdham Parish Council's West Sussex County Council highways had advised that there were legal mechanisms in place to discourage parking on roads outside the application site.

The following representations were received;

Cllr Graham Campbell – Birdham Parish Council
Mr Andy Pearce – Agent
Cllr Adrian Moss – CDC Member

Officers responded to Members comments and questions as follows;

On the matter of whether parking charges were a consideration for the Committee or not; Miss Taylor confirmed that they were not. In addition, Ms Stevens explained that whilst introducing parking charges was a commercial decision, the Planning Committee could consider the potential impact on local roads arising from the proposal. However, she reminded them that WSCC have raised no concerns.

Following a vote, the Committee voted in favour of the report recommendation to **permit**.

Resolved; **Permit**; subject to the conditions and informatives set out in the report.

6 **BI/22/01498/FUL - Premier Marinas (East car park), Chichester Marina, Birdham**

Miss Taylor presented the report to Committee. She drew their attention to the Agenda Update Sheet which included; confirmation of the Applicant; Additional

Consultation Responses from WSCC Highways Authority and WSCC Public Rights of Way and; an additional informative.

Miss Taylor advised the Committee of a verbal update on Condition 3, which would be amended to state; 'Notwithstanding the submitted details, the island and entry and exit barriers....'

Miss Taylor explained that Agenda Item's 5 and 6 were related and showed the Committee the relationship between the two application sites. She reminded the Committee that the site was located within the Chichester Harbour AONB.

Miss Taylor explained the application and what was being proposed. She informed the Committee that the applicant had indicated that there would be reduced charges for staff.

She confirmed that officers considered the size and scale of the application to be acceptable and would be unlikely to cause any harm on the surrounding AONB. However, Miss Taylor explained WSCC Public Rights of Way had submitted an objection to the proposed barrier structure over concerns it would impact within the width of the public footpath and therefore restrict lawful access. In response, to these concerns Condition 3 was amended clarifying that, if the application were permitted, further consent would be required from WSCC Public Rights of Way team. The applicant had also submitted further plans showing how the footpath could be accommodated.

Miss Taylor highlighted the land ownership of the site; she drew attention to the area of land on the eastern side of the access road which was in the ownership of West Sussex County Council. The applicant would be required to obtain separate permission from WSCC as the freeholder before undertaking any works on site.

WSCC Estates had also advised of an existing covenant which would need to be maintained, Miss Taylor highlighted that the applicant would be made aware of this through Informative 5 of the report (page 41).

Miss Taylor showed the Committee the proposed car park layout.

The following representations were received;

Cllr Graham Campbell – Birdham Parish Council
Mr Andy Pearce – Agent
Cllr Adrian Moss – CDC Member

Officers responded to Members comments and questions as follows;

On the matter of a potential impingement from the barriers when down on the Public Rights of Way; Miss Bell acknowledged the concerns raised. She assured the Committee officers had spent much time considering the application and talking to WSCC PROW officers. Following further discussions with the applicant, officers were confident that any issue of impingement could be resolved. Ms Bell confirmed further permission would be required from WSCC PROW in addition to the

requirements of Condition 3 and this requirement was set out in the informatives included within the report.

With regards to ticketing arrangements; Ms Bell informed the Committee this was a management arrangement and not a planning issue.

On the issue of the barrier width; Ms Taylor referenced the figures quoted within the Committee report. She informed the Committee further details had been provided by the applicant and an additional plan had been submitted which showed the public rights of way to measure 1.7m in width.

On the matter of the Public Right of Way classification; Ms Bell confirmed the right of way was a footpath. Users of the footpath would be expected to travel along the footpath in both directions.

With regards to lighting on the barrier; Ms Taylor informed the Committee that information on this matter had not been supplied by the applicant. However, a further Condition would be included to ensure any lighting scheme was approved before installation.

On the matter vehicle movement on site; Ms Bell agreed a Condition would be included to manage the movement of vehicles on site and address capacity concerns in order to ensure that vehicles were not unable to enter the site and therefore forced to turn on the access road leading to the marina.

Following a vote, the Committee voted in favour of the report recommendation to **permit**.

Resolved; **Permit**; subject to the conditions and informatives set out in the report, as well as the amendment to condition 3 and additional informative set out on the Agenda Update Sheet, and the two new conditions to address lighting and vehicle movement on site.

**Members took a ten-minute break*

7 **LX/21/02849/FUL - Land South West of Willets Way, Willets Way, Loxwood**

Mr Mew presented the report to Committee. Mr Mew drew the Committee's attention to the Agenda Update Sheet, which included; additional addendums to the report and an Additional Condition to address on-site water neutrality measures.

Mr Mew drew the Committees attention to paragraph 7.11 (page 58) of the report. He informed members that it was important to note that following a recent public inquiry the Planning Inspector had found the Council's housing land supply to be below five years. Mr Mew explained that as the Council no longer had a five-year housing land supply the tilted balance must be applied when determining planning applications.

Mr Mew outlined the site location; which was located outside the Loxwood settlement boundary. The site was bordered on three sides by existing developments. Mr Mew highlighted the historic buildings and confirmed there was a 30m distance between them and the proposed development.

The Committee were shown details of the proposed site layout and how it would be accessed from Willetts Close. The development would be comprised of five dwellings including;

- x2 two-bedroom dwellings
- x2 three-bedroom dwellings
- x1 four-bedroom dwelling.

Mr Mew showed site elevations and confirmed the proposed materials were consistent with the local area.

Mr Mew detailed the measures proposed by the developer to achieve water neutrality and explained how a two-pronged approach was being taken with both onsite and offsite measures (as set out in the report from page 68). He explained the offsite measures would be controlled through a S106 with all interested parties involved, including Horsham District Council and the South Downs National Park.

Natural England had been consulted on the proposed mitigation measures as part of the Habitats Regulations Assessment (HRA) and was satisfied that water neutrality could be achieved through the proposed measures.

The following representations were received;

Cllr Tony Colling – Loxwood Parish Council
Mr Charles Todhunter – Objector*
Mrs Hannah Carey – Objector*
Mrs Kathryn Smalley – Objector (statement read by Mrs Fiona Baker)
Mr Huw James – Agent
Cllr Gareth Evans – CDC Ward Member (Statement read by Mrs Fiona Baker)

*prior to speaking the Chairman asked both Mr Todhunter and Mrs Carey to confirm that they were speaking as an individual and not as a representative of the Parish Council, both confirmed they were speaking as individuals.

Officers responded to Members comments and questions as follows;

On the matter of the Interim Position Statement (IPS) and what weight it carried; Mr Mew confirmed the IPS was a guidance document and not policy. The IPS was used to help direct development to the most appropriate locations. When the tilted balance is engaged any adverse impacts must demonstrably outweigh the benefits.

In response to concerns regarding the artificial subdivision of the site; Mr Mew agreed that it appeared some artificial subdivision of the site had taken place. However, whilst this was not encouraged within the IPS, it did not mean the site was not suitable and should be considered.

With regards to 'double counting' in terms of water neutrality; Mr Mew confirmed the proposed off-site measures would be for the sole benefit of the application being considered. He explained the development where the offsite measures were being installed had been permitted before the issue of water neutrality and were not required to deliver any mitigation measures. In addition; the off-site mitigation measures would be controlled through a S106 with all interested parties being a signatory, whilst the on-site mitigation measures would be controlled through condition.

In response to concerns regarding rainwater harvesting as a mitigation measure for water neutrality; Ms Stevens advised the Committee that Natural England were the statutory body responsible for managing water neutrality and advising on what mitigation measures were acceptable. She confirmed rainwater harvesting, despite concerns raised by the Committee, was an accepted mitigation measure approved by Natural England.

On the matter of the proposed landscaping condition; Ms Stevens explained that following a series of in-house discussions and legal advice, the five-year time frame for maintenance and replacement from standard landscaping conditions had been removed. By removing the fixed time from the condition applicants would be required to maintain and replace any planting in perpetuity.

In response to concerns regarding the management of the shared area of the development; Mr Mew informed the Committee this would be addressed through Condition 10 and drew their attention to page 72. However, in response to the Committee's concern an additional Condition would be included to ensure appropriate management of the three open areas is maintained.

On the matter of bat mitigation; Mr Mew confirmed that bat mitigation measures would be included as part of the ecology appraisal submitted as part of the application.

In response to concerns raised over foul sewage; Ms Bell informed the committee that as part of their consultation response Southern Water had requested the informative detailed in para 6.3 (page 49) be included with any permission granted. She clarified they had not requested any off-site works to be undertaken to accommodate the development, however, they would require a formal application for the connection. Ms Bell advised the proposed informative could be included as a condition if the application were permitted.

On the matter of the five-year housing land supply (5YHLS); Ms Stevens informed the Committee the 5YHLS was produced on an annual basis by the Planning Policy. The most recent published position showed the council had a 5.3 5YHLS, however, this had been tested at appeal and failed. Ms Stevens explained the current 5YHLS had been found to be 4.8 years at the most recent appeal, and advice from Counsel was that to continue to state a 5 year supply position would likely result in unreasonable behaviour and award of costs. This means the Council cannot demonstrate a five-year supply at this time and the tilted balance must be

applied where necessary. Ms Stevens confirmed the 5YHLS was a material consideration.

On the matter of the Loxwood Neighbourhood Plan; Ms Stevens clarified that the Plan did form part of the Development Plan and had been taken into consideration for example in the design of the buildings and proposed materials.

With regards to the installation of solar panels; Mr Mew confirmed there would be 10 solar panels installed on each of the two semi-detached units and 12 on each of the three detached houses as part of the development.

On the matter of windfall housing; Mr Mew confirmed any windfall housing would contribute to supply.

Having listened to the discussion Cllr Brisbane proposed the application be deferred for a site visit for the following reasons;

- to further understand whether there is likely to be any impact on the listed buildings.
- to understand the how the site has been subdivided.

It was also requested that when the application is brought back to Committee further explanation is provided for the issues;

- the current 5 YHLS position
- Water neutrality

The proposal was seconded by Cllr Sharp.

Following a vote, the Committee voted in favour of Cllr Brisbane's proposal to **defer for a site visit**.

Resolved; **Defer for a site visit**.

**Members took a ten-minute break.*

**Cllr Briscoe left the meeting at 12.02pm*

8 **Nitrate Mitigation Scheme at Droke Lane, East Dean**

Ms Stevens presented the report to the Committee. Mr Day, (Environmental Manager), Mr Belderson (Planning Link Officer, South Downs National Park) and Mr Kennedy (Environmental Manager, PUSH Partnership) were in attendance to assist.

Ms Stevens explained approval to enter into a legal agreement pursuant to Section 106 of the Town and Country Planning Act and Section 33 of the Local Government Miscellaneous Provisions Act, to secure a nitrate mitigations scheme at land known as Droke Lane, East Dean was being sought.

The proposed legal agreement would be between Chichester District Council, the South Downs National Park Authority and the owners of the land. Ms Stevens explained the SDNPA were included as a signatory as the land was located within the national park and it would be the responsibility of the SDNPA to monitor and enforce the agreement.

The agreement would allow the landowner to sell credits to developers for the level of nitrates removed by taking the land out of agricultural use. Each credit sold would be the equivalent of approximately 1kg of nitrogen per year. Ms Stevens explained the number of credits provided by the site would accommodate around 158 dwellings, resulting in 126.67kg of nitrates being removed from the Harbour.

Ms Stevens explained what was meant by nutrient neutrality and provided an overview of how it had impacted development within the Chichester Harbour catchment area. She showed the Committee the catchment area for the Harbour and highlighted where the proposed scheme was located.

The site area was 4.78ha and was classified as grade 3, 4 and 5 agricultural land. It had been taken out of active agriculture in June 2021; this had been supported by a signed declaration.

In addition, to securing nitrate mitigation, the site had provided an opportunity to deliver wider biodiversity gains. As a result, the scheme had been developed in consultation with SDNPA and offered a range of different landscapes including the infilling of hedgerows, wild meadow, and grassland.

Natural England had been consulted on the proposals. To begin with they had raised concern over the certainty of how the site would be monitored and maintained, however, following further discussion they were now fully supportive of the scheme and content that it would deliver the nitrate mitigation proposed.

Ms Stevens explained how the scheme would operate, she highlighted that unlike previous schemes which required an individual S106 legal agreement, credits purchased from this scheme would be managed through a planning condition. The proposals indicated the credits were intended for small developers who had previously been unable to progress projects due to the cost associated with nitrate mitigation.

The monitoring of the site would be undertaken by the South Downs National Park and was included within the legal agreement. In addition, Planning Officers would undertake an assessment each time an application was put forward offering mitigation from the site.

Ms Stevens informed the Committee officers from the SDNPA would undertake an annual site visit for the first five years, then a five yearly would take place for the remaining 120 years.

The following representations were received;

Mrs Kerry Simmons – Agent

Officers responded to Members comments and questions as follows;

In response to concerns credits could be sold to developments outside the district; Mr Kennedy assured the Committee the scheme had been designed to facilitate development in Chichester District and credits would not be sold to developments outside the district.

With regards to large scale development; Ms Stevens explained that whilst it was not possible to prevent the owner from selling all credits to a single development, the proposals indicated that it was not their intention to do so. The scheme had been developed to bring small scale development forward.

With regards to the long-term management of the site; Ms Stevens confirmed this was controlled through the S106 agreement in accordance with the management plan. It would be the responsibility of the landowner to maintain and manage the land.

In response to queries regarding whether run-off would be diverted away from Chichester Harbour; Ms Stevens informed the Committee the scheme proposal had been accompanied by an extensive hydrological report which had been reviewed by specialists at Natural England. They were satisfied that Chichester Harbour would be the sole beneficiary from removing nitrates at the site, and Mr Day in response to questions explained that they did not believe any runoff would enter watercourses running to Pagham Harbour (except maybe in an extreme weather event).

With regards to the lack of tree planting at the site; Mr Belderson acknowledged concerns that the preferred density of trees, as recommended by Natural England, had not been planted. However, he explained the overarching scheme would offer greater biodiversity benefits and had been developed in consultation with both the SDNPA and Natural England.

On the issue of monitoring and enforcing the site; Mr Belderson informed the Committee the sum provided by the overarching S106 agreement would cover the cost of monitoring and enforcement the site. It would be the responsibility of the SDNPA (as part of the S106 agreement) to monitor and enforce the site in accordance with the management plan.

In response to queries over the proposed level of nitrate being removed; Mr Kennedy informed the Committee a precautionary principle of 20% was embedded in the calculations. The principle had been tested successfully as part of a Judicial Review.

On the matter of the current 'state' of the Harbour; Mr Day informed the Committee that the most recent data sets were released by Natural England in 2020. At this time the Harbour was described as 'unfavourable/declining'.

With regards to the impact on the Harbour from growth plans in the Southampton area; Mr Kennedy assured the Committee these would have no impact on Chichester Harbour.

On the issue of whether the Council were legally allowed to enter into such an agreement; Ms Golding confirmed they were.

On the matter of consultation; Ms Stevens explained that a consultation was not required.

Following a vote, the Committee voted in favour of the report recommendation to;

That the Committee approves the recommendation to enter into a legal agreement with the owner of land at Droke Lane, East Dean, and the South Downs National Park Authority to secure the provision of a credit-selling nitrates mitigation scheme.

Resolved;

That the Committee approves the recommendation to enter into a legal agreement with the owner of land at Droke Lane, East Dean, and the South Downs National Park Authority to secure the provision of a credit-selling nitrates mitigation scheme.

**Cllr McAra left the meeting at 12.57*

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

The Chairman drew the Committee's attention to the Agenda Update which included an update on High Court Hearings at land at Flat Farm.

The Committee agreed to note the item.

10 South Downs National Park Authority Schedule of Planning Appeals, Court and Policy Matters

The Committee agreed to note the item.

11 Consideration of any late items as follows:

There were no late items.

12 Exclusion of the Press and Public

There were no part two items.

13 Agenda Update Sheet - 05.10.2022

The meeting ended at 1.47 pm

CHAIRMAN

Date: