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Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Wednesday 13 February 2019 at 9.30 am

Members Present: Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mrs J Duncton, Mr J F Elliott, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr G McAra, Mr S Oakley, Mrs J Tassell and Mrs P Tull

Members not present: Mr G Barrett, Mr M Dunn and Mr R Plowman

In attendance by invitation:

Officers present: Mr A Frost (Director of Planning and Environment), Miss N Golding (Principal Solicitor), Miss S Hurr (Democratic Services Officer), Mr J Saunders (Development Manager (National Park)), Mrs F Stevens (Development Manager (Applications)) and Mr T Whitty (Divisional Manager for Development Management)

275 **Chairman's Announcements**

The Chairman welcomed everyone to the meeting and drew attention to the emergency evacuation procedure.

Apologies were received from Mr G Barrett, Mr M Dunn and Mr R Plowman.

276 **Approval of Minutes**

RESOLVED

That the minutes of the meeting held on 16 January 2019 be approved and signed by the Chairman as a correct record.

277 **Urgent Items**

There were no urgent items.

278 **Declarations of Interests**

Mrs Duncton declared a personal interest in planning applications WW/18/02708/DOM, SY/18/00951/UL and SY/18/00952/LBC as a member of West Sussex County Council and SDNP/18/05672/HOUS as a West Sussex County Council member of the South Downs National Park Authority.

Mr J F Elliot declared a person interest in planning application SDNP/18/05672/HOUS as a member of Singleton Parish Council.

Mr Oakley declared a personal interest in planning application WW/18/02708/DOM as a member of West Sussex County Council.

Mrs Purnell declared a personal interest in planning application WW/18/02708/DOM as a member of West Sussex County Council.

279 **WW/18/02708/DOM - Dolphins Rookwood Lane West Wittering Chichester West Sussex PO20 8QH**

Additional information was reported on the agenda update sheet regarding the ground level of the footpath which is lower than the ground levels of the gardens. The Applicant had also submitted a photograph of Dolphins and its gardens dated from 1951 showing the foreshore garden as a cultivated garden. Correspondence from English Nature [now known as Natural England] had been received, dated 17 and 28 November 1997 providing the revisions to the boundary of the Solent Maritime pSAC (Possible Special Area of Conservation) and SSSI (Site of Special Scientific Area). The map showing the foreshore garden as not included in the proposed revisions for the Solent Maritime pSAC (possible Special Area of Conservation) and SSSI.

The following members of the public addressed the committee:

- Mrs N Pike – Parish Representative
- Mr R Austin – Objector
- Mr S Hill-Norton – Objector
- Mrs H Ball – Supporter
- Mr G Chapman – Applicant

During the discussion members debated the concerns raised by objectors including the ‘domestication’ of the foreshore, the proposed engineering works required to construct the tunnel, its impact on the ecology of the location, the view of the tunnel for those using the public right of way, drainage requirements, whether the tunnel was within the SPA (Special Protection Area)/SSSI area and if the engineering works could be considered as justifiable due to the short distance between the bisected gardens, the use of the path by cyclist and whether the garden was part of property’s land.

Officers responded to members’ questions and comments. Mr Whitty advised that the applicant was not required to justify proposing a tunnel. In terms of the ecological impact, a plan had been shown with the lines of the pSAC and SSSI and explained exact boundaries on plans and GIS are not always accurate but noted that such boundaries do not stop ecology. Natural England have recognised this and requested an appropriate assessment which had been completed. They concluded that there may be some impact from construction but raised no objection. Regarding the history of the land, an enforcement case had previously been opened as a complaint had been received. Having reviewed it from an enforcement viewpoint on aerial photographs, a building and managed grass could be seen in

2013 and in 2007 a boat had been stored on the land on which managed grassland could also be seen, therefore on the balance of probability it was a privately managed domestic garden. Mr Whitty also reminded members that decisions do not set precedents, as each application is evaluated on its own merits. Regarding engineering works, and what will be seen from the foreshore, the opening to the tunnel which will be planted, may be seen, but this will be within a domestic garden and cannot be said to harm the character of the area. Mr Whitty also confirmed that on the issue of flooding, the drainage engineer had viewed the site and suggested it may flood in winter, and therefore the applicant would need to install a pump.

Mr Whitty iterated that the structure would hardly be seen from the path with just glimpses from the foreshore and the land has a history of being used as a domestic garden. Mr Whitty confirmed that the only planning issue other than ecological considerations which had any significant weight in terms of a material planning consideration was the physical impact of the works.

The chairman proposed a vote was taken on the recommendation to permit which was not carried.

Members continued to debate the application and Mrs Tull put forward a proposal to refuse the application which was not seconded.

Mr Oakley proposed the decision be deferred in order to gather further information regarding the status of the land and impact on SSSI which was seconded by Mrs Tassell. The decision to **defer** was carried.

The committee took a short break.

280 **SY/18/00951/FUL and SY/18/00952/LBC - 99 - 101 High Street Selsey Chichester West Sussex PO20 0QL**

This item was withdrawn from the agenda.

281 **SI/18/00768/FUL - 83 Fletchers Lane Sidlesham PO20 7QG**

Additional information was reported on the agenda update sheet providing a plan which replaced the plan on page 49 of the agenda. The development had also commenced on site and therefore condition 1 (Time Limit) should be omitted. Condition 4 was also amended and an additional condition inserted regarding the removal of the existing chicken sheds within one month of the first use of the new building.

In response to members questions Mrs Stevens confirmed that the shed would be used to house chickens, and should the applicant wish to convert the shed to a domestic dwelling, a further planning permission would be required.

Recommendation to **Permit** with amended conditions 1 and 4, and an additional condition inserted agreed.

282 **FB/18/01931/LBC - Little Dolphins Main Road Fishbourne Chichester West Sussex PO18 8BD**

Additional information was reported on the agenda update sheet as the development had also commenced on site and therefore condition 1 (Time Limit) should be omitted.

Recommendation to **Permit** with amended condition 1 agreed.

283 **SDNP/18/05672/HOUS - 2 Grooms Yard, A286 The Grove To Cobblers Row, Singleton, PO18 0SB**

Mr Whitty explained that this application had been brought before the committee as the applicant is a member CDC staff.

Recommendation to **Permit** agreed.

284 **Chichester District Council - Schedule of Planning Appeals, Court and Policy Matters Between 18-Dec-2018 and 29-Jan-2019**

The Committee considered and noted the schedule of planning appeals, court and policy matters that had been circulated with the agenda.

Additional information was reported on the agenda update sheet regarding amendments to pages 89 and 90 to state 'Called-in Applications – none' and to note the Council's application for permission to appeal in respect of the High Court's decision on Breach Avenue, Southbourne had been granted by the Court of Appeal. The Chairman thanked the officers for their significant work on this matter.

Mr Whitty drew the committee's attention to some of the planning appeals beginning with 18/00525/AVD, the signage on Unit 1 Portfield Way, for which the Appeal was part allowed, and confirmed that the Council would continue to work to control signage to retain a more 'sublime' ambiance in this area, as an entrance to Chichester.

Mr Whitty commented on 17/00448/FUL, the Old Haven, The Street, Itchenor highlighting this as a good decision as the Council had sought to protect this building which is a non-listed building but designated heritage asset which provides a positive contribution to the area, with which the inspector agreed.

285 **Variations to Section 106 Agreements - 18-02026-OBG: Rowan Nursery and Pippins, Bell Lane, Birdham**

The Chairman referred the committee to item no. 5 on the agenda, 18/02026/OBG, Rowan Nursey and Pippins, Bell Lane, Birdham. Mr Whitty explained this is a variation to a Section 106 Agreement, commenting that housing officers are content with this variation and as required, it would be brought to the committee's attention.

286 **South Downs National Park - Schedule of Planning Appeals, Court and Policy Matters Between 18-Dec-2018 and 29-Jan-2019**

The Committee considered and noted the schedule of planning appeals, court and policy matters that had been circulated with the agenda.

Mr Whitty commented that with regards to SDNP/18/01998/HOUS, Burnel, Dodsley Lane, Easebourne the appeal had been allowed for the replacement of a stone wall with one constructed of precast concrete which the Council had argued as inappropriate within its setting. The inspector had felt that the Council was concerning itself too much with finer detail on this matter, but officers considered this a disappointing decision by the inspector, and therefore one worth highlighting.

287 **Consultation on Protecting and Enhancing England's Trees and Woodlands**

Mrs Stevens introduced this item explaining that this consultation from the Department for Environment, Food and Rural Affairs (DEFRA) which is seeking to introduce measures to make the felling of trees more transparent. There are proposals to consult with local communities about the felling of highway trees, of which officers would be supportive, but there is a lack of clarity about what constitutes a highway tree. There are also concerns that the proposed process for the involvement of residents as consultees needs to be simplified. In terms of the reporting of all tree-felling, this is considered difficult in terms of resources, and also may have the counter-productive effect of developers clearing sites of trees before the planning application stage is reached. The Council will respond to the consultation with these comments. There are further proposals regarding the Forestry Commission enforcement powers for which the Council have no comments.

Members asked questions about Ash Dieback Disease, the removal of trees which do not have TPOs, trees which are not in a conservation area, but are still significant within the landscape, and whether the consultation includes hedgerows? In response to members' questions, Mr Whitty confirmed the consultation does not include hedgerows, and that officers are very attuned to concerns about developers removing trees. Where necessary the Council does try to place TPOs on trees when land looks likely to be sold for development, but it is not unusual for developers to clear trees prior to seeking planning permission which may be exacerbated as Mrs Stevens suggested by the proposals and this will be made clear in the response to the consultation. The onus should be on the landowner, prior to selling the land rather than the local authority, as this would be a duplicate of process, although this would be difficult to introduce.

Mr Whitty confirmed officers are very aware of Ash Dieback Disease and requests had been received to fell trees under the remit of 'dead and dangerous'? For trees with a TPO this is not permitted by the Council as although they will die, there is no evidence these trees will become dangerous and being 'dead' as a justification for felling a tree has been removed, but the Council has no control over trees without a TPO.

In response to further questions regarding requesting DEFRA to introduce measures to stop land owners from removing significant trees, Mr Whitty responded that this

was a good suggestion and the response to the consultation will be amended to include this. Mr Whitty further added, although it may be difficult in practice as it would be effectively asking the government to make the whole country a conservation area, it would give the council the benefit of being notified and therefore provide the opportunity to place TPOs on such trees.

In response to member questions about whether the National Park have greater protection, and reference to other authorities having responsibilities for trees, Mr Whitty confirmed that trees in the National Park do not have greater protection, and agreed that the Council's response will cite that other authorities are also responsible for trees and further commented that this could have a significant impact on the County Council.

Mr Whitty confirmed on a point of clarification that currently the proposals have 'no teeth', the requirement would be to report the felling and replacement of trees not for aesthetic purposes, but for the environmental argument that they are 'green lungs' of the country.

288 Consideration of any late items as follows:

There were no late items.

The meeting ended at 11.22 am

CHAIRMAN

Date: