



Minutes of the meeting of the **Planning Committee** held in Committee Rooms, East Pallant House on Wednesday 8 September 2021 at 9.30 am

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

Members not present: Rev J H Bowden and Mrs J Fowler

In attendance by invitation:

Officers present: Miss J Bell (Development Manager (Majors and Business)), Mr J Bushell (Principal Planning Officer), Miss N Golding (Principal Solicitor), Mr T Whitty (Divisional Manager for Development Management) and Mr L Simpson (Senior Planning Officer)

103 **Chairman's Announcements**

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

Apologies were received from Cllr Bowden and Cllr Fowler.

104 **Approval of Minutes**

The minutes of the meeting held on 11 August 2021 were agreed as a true and accurate record.

105 **Urgent Items**

There were no urgent items.

106 **Declarations of Interests**

Mr Barrett declared a personal interest in respect of BI/20/02066/OUT as the external appointment to Chichester Harbour Conservancy.

Mrs Johnson declared a personal interest in;

- BI/20/02066/OUT as a member of West Sussex County Council
- CC/21/01789/DOM as a member of West Sussex County Council
- NM/20/02989/FUL as a member of West Sussex County Council

Mr Oakley declared a personal interest in;

- BI/20/02066/OUT as a member of West Sussex County Council

- CC/21/01789/DOM as a member of West Sussex County Council
- NM/20/02989/FUL as a member of West Sussex County Council

Mrs Sharp declared a personal interest in;

- BI/20/02066/OUT as a member of West Sussex County Council
- CC/21/01789/DOM as a member of West Sussex County Council
- NM/20/02989/FUL as a member of West Sussex County Council

107 **20/02066/OUT Koolbergen, Kelly's Nurseries and Bellfield Nurseries, Bell Lane, Birdham, Chichester, PO20 7HY (approximate start time 9.35am)**

Mr Bushell presented the report to the Committee. He drew the Committee's attention to the Agenda Update Sheet which detailed a change to the description of the development; amendments to conditions 26 and 27; amendments to the report and noted the additional representations received since the Committee report was published.

Mr Bushell highlighted the site plan to the Committee and presented them with an illustrative layout of the proposed development. He explained that the proposal was for a total of 73 dwellings comprising of; 52 market housing dwellings and 21 affordable housing dwellings. However, he did remind the Committee that the final layout and housing mix was a matter that would be determined as part of the Reserved Matters and therefore may change.

Mr Bushell highlighted the proposed site for the foul water pumping station and advised that it would include a holding tank with 48 hours storage capacity installed as part of the development.

Mr Bushell explained that the application was an Outline application to agree access points onto the site as well as the principle of development when assessed against the criteria in the Interim Position Statement on housing. He highlighted the three vehicular access points from Bell Lane and confirmed that the northern most access point would serve only one property. In addition he advised the Committee that the Swept Path Analysis demonstrated adequately safe vehicular movement for the Council's refuse vehicles.

Mr Bushell told the Committee that as part of preliminary work to inform the review of Birdham Neighbourhood Plan in terms of finding potential future housing sites, the site had been ranked as the third most suitable development site, out of 17. Whilst acknowledging objections, Mr Bushell informed the Committee that due to the lack of a five year housing land supply and development plan housing policies being out of date which was a fundamental shift in policy circumstances, it was the officers recommendation to permit the development as the site was viewed as being in a good sustainable location when the NPPF's 'Tilted Balance' was applied.

The Committee received the following representations;

- Mr Clive Bush – Parish Council representative
- Mr Pieter Montyn – WSCC Councillor

- Mrs Lisa Clark – Objector
- Dr Carolin Cobbold – Objector
- Mrs Pat Macdonald – Objector

Before the Chairman opened the floor to debate, she invited Mr Whitty to address the Committee and explain what the 'Tilted Balance' was and its significance in considering planning applications.

Mr Whitty informed the Committee that the Tilted Balance is a material consideration and advised the Committee that they must take it into account when considering an application. He explained that under paragraph 11(d) of the National Planning Policy Framework (NPPF); (unless the site is in an area of AONB or other protected location), if a site is considered as being sustainable then the presumption must be in favour of granting permission. If the Committee choose to refuse an application they must clearly demonstrate that they have considered paragraph 11(d) and are able to demonstrate that after applying the tilted balance they believe the adverse implications that may result from the proposed development would significantly outweigh the benefits.

For example, Mr Whitty referred to the Scant Road application which had gone to appeal. In their review of the case the Planning Inspectorate deemed that the Planning Committee, in reaching their decision, had failed to demonstrate that they had either considered or applied paragraph 11(d) of the NPPF, and whilst the applicant had not applied for costs they would have reasonable grounds to do so.

Officers responded to Members' comments and questions as follows;

As part of his opening statement Mr Barrett distributed to the Committee and members of the public an additional piece of information on waste water.

On the matter of jobs being lost due to the closure of the Bellfield Nursery; Mr Bushell acknowledged the Committee's concerns, however, he explained that the proposal did offer employment opportunities as part of the proposed retail and employment buildings. The Planning Inspector had taken into consideration the loss of the nursery and the employment it provided as part of the previous appeal and found that this weighed against that proposal. However, Mr Bushell explained that this loss would now need to be considered against the lack of a five year housing supply and when applying the tilted balance the quantum of development and access to local services and amenities offered potentially greater benefits in terms of sustainability. In addition, Mr Whitty explained that when the application had previously been considered there was a five year housing land supply within the District and therefore the loss of employment from the nursery did, in part, outweigh the benefits offered by the development. However, there is now no current five year housing supply within the District and therefore it cannot be assumed that a Planning Inspector would reach the same conclusion as previously.

With regards to the available headroom capacity at Sidlesham Waste Water Treatment Works; Mr Bushell informed the Committee that Southern Water had confirmed that there was sufficient headroom at the facility.

In response to concerns raised over the network capacity for the movement of foul waste; Mr Bushell acknowledged that there were issues with the network; however, a phased approach for development was proposed to allow Southern Water time to undertake works to address the issues.

Mr Bushell confirmed that there was no marketing requirement for the loss of a horticultural site.

On the issue of Affordable Housing; Mr Bushell informed the Committee that there was a general need for affordable housing within the District, and highlighted to the Committee that no objection had been received from the Housing Officer.

On the issue of the surface water drainage ditches, Mr Bushell confirmed that the illustrative layout had been prepared to show a 3 metre wide maintenance strip around the north, west and southern boundaries of the site. With regards to landscaping Mr Bushell explained that this was already in place along the boundary edge and therefore there was not a requirement for additional landscaping in this area of the development. He confirmed that access to the ditches and their future maintenance was covered under Condition 12 proposed within the report. In addition, Mr Whitty confirmed that if the item were to be deferred this issue could be brought back to the Committee to demonstrate in greater detail and to ensure that provision for the 3m buffer zone could be provided within the quantum of development.

On the matter of biodiversity, Mr Bushell explained that the site had rewilded but was periodically cleared by the developer. He informed the Committee that the main biodiversity gains would be achieved at the boundary edges through gapping up of hedging, tree planting and the creation of features such as bat corridors. Condition 5 of the report set the required mitigation and enhancement measures, which would be considered in further detail as part of the Reserved Matters application. In addition, Mr Whitty explained that whilst further biodiversity requirements are expected to be brought forward through the Environment Bill, only current policy could be applied to the development and the application of planning conditions.

On the issue of the ownership of Bellfield Nursery, Mr Bushell acknowledged that it was in different ownership; however, he reminded the Committee that a letter of confirmation and support for the scheme had been received from the owner of that nursery.

With regards to the Clappers Lane development site, which had been refused by the Committee; Mr Whitty explained the difference between the current application and the Clappers Lane site was evidence. There was substantial evidence from members of the public to show that there were major failings in the foul sewer network and, most significantly, Southern Water acknowledged these failings. On the current application, Southern Water has not raised any issues and there is no evidence to support claims that the development will have a detrimental impact. Southern Water has acknowledged that the network needs improvements and has asked that a phased approach to the development is adopted to allow time for the necessary works to be completed.

With regards to funding Southern Water reinforcement works through infrastructure charges; Mr Whitty confirmed that it was standard practice for off site development works to be funded through contributions. He explained the Interim Policy Statement (IPS) tries to ensure that sites requiring the least amount of work are brought forward first. Mr Whitty advised that there was a condition included within the report that prevented any site occupancy, until the drainage scheme had been approved.

On the matter of the impact of development on the A27; Mr Whitty acknowledged concerns raised by the Committee, however, he advised that the statutory consultee National Highways (formerly Highways England) had raised no objection to the development. There is no evidence to demonstrate that this development will have a significant impact upon the network and the impact of cumulative development would be addressed through the Local Plan. Mr Whitty stressed that unless significant adverse impacts could be demonstrated when applying the tilted balance the recommendation must be in favour to permit.

With regards to when the response from National Highways was received, Mr Whitty explained that he did not have the exact date to hand, but confirmed that the response did predate their announcement that the A27 scheme of mitigation was undeliverable.

On the matter of school provision, Mr Whitty acknowledged concerns regarding school places and the potential impact to communities if children were dispersed to different schools. However, he reminded the Committee that the issue of school provision was the responsibility of the WSCC Education service; they had not provided any comment on the application, but officers could approach them again to ask for comment.

In response to concerns raised by the Committee regarding the impact the development would have in respect of maintaining the local character, and the importance of the horticultural industry within the area; Mr Whitty agreed with the comments made and acknowledged that similar concerns had been included within the reasons for the previous refusal. However, what had not been demonstrated by the Committee was how their concerns impacted upon the tilted balance and how those concerns could tip the balance away from the overriding importance which the government attached to the delivery of houses.

On the issue of considering the impact of cumulative development; Mr Whitty acknowledged the Committee's concerns but advised that a hypothesis of anticipated development could not be presented to a Planning Inspector as evidence. Consideration could only be given to the impact of developments already permitted.

Following the debate, Mr Brisbane proposed to defer the application so that further information may be sought to address concerns raised by Committee members during their debate. He proposed that further information and attendance at Committee be requested from; Southern Water and National Highways (formally Highways England) particularly regarding cumulative impact.

Mr Brisbane agreed to include within his proposal the request to also seek further information regarding the proposed 3m buffer and how it would enable the quantum of proposed development to be accommodated on the site; a request for the attendance and further information from WSCC highways and to seek a response from WSCC Education.

This proposal was seconded by Mr Potter

In response to the proposal Mr Whitty caveated that National Highways would not model proposed development and reiterated that the only way of managing the cumulative impact on the highway network was through the Local Plan.

In response to the question of whether outside bodies could be invited to attend the Committee meeting, Mr Whitty confirmed that officers would invite them to attend but they were under no obligation to attend.

In a vote the Committee agreed the recommendation to **defer for further information**.

Recommendation; **Defer for further information** from; Southern Water; National Highways (formally Highways England); WSCC Highways, WSCC Education and for further information regarding 3m buffer zone.

*Members took a ten minute break.

108 **21/01789/DOM 125 Cedar Drive, Chichester (approximate start time 11.35am)**

Mr Simpson presented the report to the Committee. He drew the Committee's attention to the agenda update sheet which explained that the Cllr Bowden had removed his red card objection; a red card had subsequently been submitted by Cllr Sharp.

Mr Simpson explained the application sought to remove Condition 3 of a previous application which had been granted by Committee in November 2019. Condition 3 of the original application required that the two outer windows on the gable end would be glazed with obscure glass. Mr Simpson informed the Committee that the reason this application was now been recommended for approval was due to the fact that since the original application the situation had changed, there were now outdoor buildings in the neighbouring properties which mitigated the previous issue of overlooking.

Mr Simpson highlighted the site location and where it was located in respect to neighbouring properties.

The Committee received the following representations;

- Ms Sarah Gottesman – Objector (statement read by Fiona Baker)
- Mrs Maribel Bryer – Applicant

Before open the debate the Chairman invited Mr Whitty to confirm and clarify exactly what the Committee were being asked to consider. Mr Whitty clarified that the application the Committee were being asked to consider was the removal of Condition 3 and the requirement for obscure glazing on the two outer windows of the gable end.

Officers responded to Members' comments and questions as follows;

With regards to the building in the rear of 129 Cedar Drive; Mr Whitty confirmed that the buildings did appear to be designed to be permanent fixtures.

In a vote the Committee agreed the recommendation to **permit**.

Recommendation; **permit** subject to the conditions and informatives listed in the report.

*Members took a five minute break

109 **20/02989/FUL Land South of Lowlands, North Mundham (approximate start time 12.20pm)**

Ms Bell presented the report to the Committee. She drew the Committee's attention to the agenda update sheet which included amendments to conditions 10 and 11; an amendment to paragraph 3.14 of the report and some additional information from the applicant regarding biodiversity net gain.

Ms Bell highlighted the site location and explained that the application was a hybrid application with full planning permission being sought for 66 dwellings and associated infrastructure; including parking; the ecological mitigation land; the SUDs and play area. Outline permission is being sought for the open space, cycle link and reconfiguration of the school parking. Ms Bell explained the reason parts of the application were in outline was due to the fact that at the time of submission, WSCC and North Mundham Parish Council had not finalised detailed layout proposal for those elements in outline.

Ms Bell informed the Committee that the proposed vehicular access utilised the existing internal roads and access point that were granted through the Lowlands Nursery site, which was considered by Committee in December 2020.

Ms Bell highlighted the public right of way which runs along the southern boundary of the application site and connects North Mundham with Hunston.

She explained that the application site is stretched across two parishes, with two thirds of the application site (including all the proposed housing) falling within North Mundham Parish Council and the other within Hunston Parish Council.

The proposed housing mix for the site is 70% market value housing and 30% affordable housing, including 14 rented properties and 6 shared ownership properties. The majority of the developments would be two storey dwellings; apart from six properties located in the southern area of the site which will be single

storey. The site layout and design have taken into account nearby listed buildings including St Stephen's Church.

Ms Bell drew the Committee's attention to the proposed area of ecological mitigation which included a reptile receptor area.

Ms Bell highlighted the sustainability measures proposed including PV panels on 17 dwellings and air source heat pumps in all properties. The proposed measures equate to around a 42% improvement above Building regulations on heating and a further 10% from renewable energy.

Ms Bell explained that the open space (not including the SUDs) was expected to be taken over by North Mundham Parish Council, with discussions currently taken place to secure a maintenance contribution for the next 15 years.

The Committee received the following representations;

- Mr Timothy Russell – North Mundham Parish Council Representative
- Ms Amanda Sutton – Agent

Officers responded to Members' comments and questions as follows;

On the matter of the condition for the drainage ditch line; Ms Bell agreed to review the condition to ensure that the moat is adequately maintained.

With regards to the Open Space to the east and why it could not be included within the full planning permission; Ms Bell explained that at the time of submission the application included a community facility provision, where the details were unknown at the time of submission. The community facility had subsequently been withdrawn however it was not deemed appropriate to include the open space within the full part of the application as detailed site information such as the landscaping layout were still not yet available; it would have also generated an amended application fee.

With regards to the inclusion of conditions for the construction of estate roads and bin storage, Ms Bell agreed that these could be included.

On the matter of a trigger point for when the 'hoggin' on the Public Right of Way (PRoW) would be installed; Ms Bell drew the Committee's attention to Condition 30 which stated that before the first occupancy of any dwelling details of the PRoW upgrade must be approved, she agreed that for clarity the submission of a timetable of implementation could also be included within the condition.

On the issue of foul drainage; Ms Bell advised the Committee that the current dry weather flows at Pagham Waste Water Treatment Works showed a capacity for 734 dwellings. However, she explained that the set up at Pagham is slightly more complicated as it is used to service development in both Arun District and Chichester District. The Planning Policy team are currently working with Southern Water to agree a Statement of Common Ground and the information they have provided regarding headroom capacity has been included within the evidence base for the Local Plan, and was used by officers in preparing the committee report. Southern Water have provided a trajectory for Pagham which shows that there are

an additional 920 dwellings expected to be connected to the treatment works between 2020 and 2036, however, the information provided does not state how this figure was expected to be split between Arun and Chichester. Ms Bell explained that the current headroom capacity of 734 is not expected to be exceeded until 2025/26 and confirmed that Southern Water is currently developing a growth scheme to update the Pagham Treatment works to address the capacity issues. In addition, Ms Bell explained that if there were any capacity issues during construction the developer had agreed to provide tankers during the interim.

With regards to the capacity at both North Mundham School and the Free School; Ms Bell informed the Committee that whilst she had not been able to speak with WSCC education officers, WSCC highways had commented that if children did need to be moved to another school it would not have a detrimental impact on the highway. The highways officer had also noted that there were some significant sustainability benefits being brought forward by the development including the cycleway. In addition, there were developer contributions coming forward to help address any capacity issues at the local schools.

On the matter of First Homes; Mr Whitty explained that whilst the policy will require 25% of affordable housing to be First Homes, it will only be applicable on applications made after 28 December 2021 or; for applications which had been subject to significant pre app advice there was a later date of March 2022. Therefore it did not apply to this application.

On the issue of the A27 and the recent announcement that the scheme of mitigation is no longer deliverable; Mr Whitty advised that officers would consult with National Highways to confirm their comments following the announcement made on July 29 2021 at the All Member Briefing session. However, Mr Whitty counselled the Committee that the application must be considered on its own merits and it is a matter for the Committee to determine whether they feel that the cumulative impact on the A27 does create a significant impact that will result in adverse consequences and tip the tilted balance away from permitting the development.

In response to a question regarding which floodzone the Pagham Waste Water Treatment Works was located in; Mr Whitty answered that he was unaware of what flood zone it was located in, however, he reminded the Committee the issue of waste water is the responsibility of Southern Water and not relevant to the discussion.

On the matter of the access road onto the site; Ms Bell confirmed that there was only one vehicular access road onto the site; this had been approved by WSCC Highways who were satisfied with the proposal and have raised no objection to the application.

With regards to the Hunston Copse; Ms Bell confirmed that it was not in the ownership of the developers.

Following the debate Mr Oakley proposed that the Committee defer the application so that further information could be provided to address concerns raised by

Committee members during the debate. In particular further evidence and attendance at Committee is requested from;

- National Highways (formally Highways England) regarding the A27 and their recent announcement that the scheme of mitigation is undeliverable;
- WSCC Education and the lack of school places with the area, including a response to their comment on the Hunston Neighbourhood Plan;
- WSCC Highways and the impact from the proposed development on surrounding roads, including a response to their comments on Hudson NP and why this application has a different response.

In a vote the Committee agreed the recommendation to **defer for further information**

Recommendation to **defer for further information** from;

- The National Highways (formally Highways England) regarding the A27, to explain its assessment of individual and cumulative impact of proposed development on A27 and explain any mitigation proposals;
- WSCC Education and the lack of school places with the area, including a response to their comment on the Hunston Neighbourhood Plan;
- WSCC Highways and the impact from the proposed development on surrounding roads, including a response to their comments on Hudson NP and why this application has a different response.

*Members took a half hour break for lunch

*Mr McAra and Mr Potter left the meeting at 1.20pm

110 **Consultation on proposed Nationally Significant Infrastructure Project (NSIP) - 21/02208/ADJ Rampion 2, Offshore Windfarm (approximate start time 1.20pm)**

Ms Bell presented the report to Committee. She drew their attention to the Agenda Update Sheet which set out an amendment to the recommendation.

She informed the Committee that the development of the off shore windfarm would comprise of both on and off shore infrastructure. Ms Bell explained that none of the proposed on shore works would take place within Chichester District, but would be located in Arun, Horsham and Mid Sussex; including the South Downs National Park.

Following the report members discussed the site and consultation and made the following comments;

It was noted that windfarms can be a positive addition to the tourist industry; in Brighton and Hove the off shore windfarm is a tourist attraction with people taking boat rides out to visit the site.

Whilst the impact from construction on 'wet fish' fishing had been considered, the potential impact on the shellfish industry is not yet fully understood, however, representatives were meeting with Rampion to discuss this issue.

In a vote the Committee agreed to make the recommendation set out in the report at 9.2 including the amendment as set out on the Agenda Update Sheet.;

- i) The Planning Committee note the contents of the consultation on the proposed Rampion 2 Offshore Windfarm development and;
- ii) Have commented on and endorse the recommended CDC consultation response set out in section 9.2 and the Agenda Update Sheet. Any further comments will be incorporated prior to the response being forwarded to the applicant.

111 Class Q Prior Approval Guidance Document (approximate start time 1.50pm)

Mr Whitty presented the report to the Committee. He informed the Committee that following the Planning Committee meeting in January 2020, where a draft version of the guidance note had been endorsed, a public consultation had taken place from 31 January 2020 to 16 March 2020. He explained the delay in the guidance note coming back to Committee following the consultation was due to a number of factors, but largely due to the fact the General Permitted Development Order (GPDO) had been amended 10 times during that period.

Mr Whitty explained that the document was not a policy document and could not be used to refuse applications; however, it was a useful document that sets out what is expected and required from developers, applicants and officers who are involved in Class Q applications.

Following the report Mr Whitty responded to members' comments and questions as follows;

With regards to whether the caveat of subsequent applications set out in paragraph 8.0 of the report was required, Mr Whitty confirmed that it was. He explained that if the caveat was removed there would be no justification to resist a larger dwelling should such an application be put forward at a future date as the principal of the scale; design and proportion of the development would have already been established through the Class Q application.

On the matter of the associated curtilage of a Class Q development; Mr Whitty explained that there is no specific guidance on this matter and agreed that a subsequent note could be included within the guidance document to address this issue and restrict the curtilage as far as is reasonably possible.

With regards to developments in a flood zone 3 area; Mr Whitty confirmed that flooding is an issue that can be considered under the GPDO, therefore if an application were to be brought forward in a flood zone 3 area it is unlikely to be supported.

In a vote the Committee agreed to make the recommendation set out in the report.

Recommendation;

- i) The Planning Committee approves the Chichester District Council Guidance Note on Class Q Prior Approvals (September 2021) (included in Appendix 1), to be used by the Council in determining all relevant prior approval and planning applications.
- ii) That the Divisional Manager for Development Management is authorised to make necessary minor changes to the guidance to take account of future pertinent case law or appeal decisions.

112 Revocation of Hazardous Substance Consent Report (approximate start time 2.20pm)

Mr Whitty presented the report to the Committee. He highlighted the site location and confirmed that the site had not been in use for the last five years.

The Committee noted the contents of the report.

In a vote the Committee agreed to make the recommendation set out in the report.

Recommendation;

The Planning Committee resolves to make a revocation order s14(1) of the Planning (Hazardous Substances) Act 1990, i.e. revoking the Hazardous Substances Consent ref CC/02/03063/HSC for "Continuation of hazardous substance consent for the storage of high pressure natural gas". (and all previous relevant consents) on the gasholder site, Terminus Road, Chichester; subject to its confirmation by the Secretary of State under Section 15 of the Act.

113 Chichester District Council Schedule of Planning Appeals, Court and Policy Matters (approximate start time 2.35pm)

Ms Golding provided the Committee with a High Court update in respect of a gypsy site in Birdham. She explained that the authority had exercised their powers to 'decline to determine' on a planning application. The applicant had subsequently lodged a judicial review (for which you need the courts permission), their paper application was refused; however, they have exercised their right of appeal, which was being heard in the High Court at 2pm on Wednesday 8 September. Ms Golding will report the outcome at the next Committee meeting.

The Committee agreed to note the item.

114 South Downs National Park Authority Schedule of Planning Appeals, Court and Policy Matters (approximate start time 2.40pm)

The Committee agreed to note the item.

115 Consideration of any late items as follows:

There were no late items.

116 **Exclusion of the Press and Public**

There were no part two items.

The meeting ended at 2.30 pm

CHAIRMAN

Date: