

# Chichester District Council

Planning Committee

6 March 2024

## Charmans Field, Marsh Lane, Runcton (LPA ref. NM/22/02191/OUT)

Outline planning application (with all matters reserved except access) for the development of up to 94 residential dwellings, new access from Lagness Road, public open space, landscaping, sustainable urban drainage and associated works including new footway and cycleway links.

### 1. Contacts

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### 2. Recommendation

- 2.1 **The Committee is asked to note the contents of this report and endorse the resolution of the 8 November Planning Committee to defer the application for S106 and then permit subject to conditions.**

### 3.0 Background

- 3.1 On 8 November 2023 the Planning Committee resolved to permit the above proposed development subject to conditions and completion of a S.106 agreement to secure the necessary infrastructure and to make the application acceptable in planning terms.
- 3.2 Prior to concluding the S.106 agreement, the government issued on 20 December 2023 a long anticipated revision to the National Planning Policy Framework (NPPF). The revised NPPF is relevant to the Charmans Field application in that it introduces a change to the way in which the 5 year housing land supply (5YHLS) is undertaken. The Committee will recall that the Council's 5YHLS position was a fundamental consideration in the judgments made in the November Committee report regarding the appropriateness of the development. The government's changed policy stance on the 5YHLS issue is material to the decision making process on planning applications for new housing development
- 3.3 Whilst the Charmans Field application has a Committee resolution to permit, a decision has not yet been issued on the application pending completion of the S.106 agreement. Given that the application is not yet determined, officers consider that it is necessary to revisit the Committee resolution made 4 months ago in light of the change in government policy through the NPPF on housing land requirements.

## 4.0 Main Report

- 4.1 The following text shall be read in conjunction with the officers' report to the November Committee which is attached at Appendix 1.
- 4.2 At the time the Committee made its resolution in November 2023, the Council could not demonstrate that it had a 5YHLS as required by the NPPF. The absence of a 5YHLS triggered the 'tilted balance' in paragraph 11 d) of the NPPF. For decision-making this mechanism essentially provides for a presumption in favour of approving sustainable development proposals where the policies which are most important for determining the application are found to be out of date and the Local Authority cannot demonstrate a 5-year housing supply. Both circumstances applied in the case of Charmans Field and whilst the Committee report acknowledged that there were factors such as landscape harm and scale of development which weighed against the proposals, when carrying out the final planning balance these factors were considered to be outweighed by the shortfall in the housing supply and acknowledgement of the weight which government policy attaches to significantly boosting the supply of homes.
- 4.3 With the issue of the revised NPPF, Councils like Chichester that have an emerging Local Plan which has completed its 'Regulation 19' formal consultation stage and is ready to submit for examination, need only identify a four-year supply of housing sites for the 5-year period. Through national planning guidance in the NPPG (Paragraph 055) the government has removed some initial ambiguity in interpretation of the NPPF advice by confirming that the five-year housing land supply and the four-year housing land supply that authorities should demonstrate for decision making purposes should consist of deliverable housing sites measured against the authority's five year housing land supply requirement (not a 4 years supply measured against a 4 year requirement as some have argued).
- 4.4 The Council has recently re-issued its Updated Position Statement on its 5YHLS housing supply (as at 1 April 2023). The current assessment for the Chichester Local Plan area identifies a potential housing supply of 2,661 net dwellings over the period 2023-2028. This compares with an identified housing requirement, over 4 years of 2,542 net dwellings. This results in a surplus of 121 net dwellings, equivalent to 4.19 years of housing supply.
- 4.5 The Council therefore clearly accepts that it cannot demonstrate a 5YHLS and indeed that position has changed further since November 2023 when the agreed supply was 4.65 years. What paragraph 226 of the NPPF now permits is for LPA's like Chichester which have a demonstrable housing supply of between 4 and 4.99 years, to deliver only a minimum of 4 years' worth of housing instead of a 5YHLS.
- 4.6 However, the important caveat to the new policy in NPPF paragraph 226 is that the new arrangement on housing supply is only a temporary arrangement which will apply for just a 2-year period from the date of publication of the NPPF. By the 6 March Committee therefore, the Council will already be 2.5 months into that temporary 2-year period which ends on 20 December 2025.
- 4.7 In addition to the government clarifying through the NPPG that the period over which a 4-year supply needs to be demonstrated is 5 years, there is a further

implication in paragraph 11 d) in terms of the weight to be attached in decision-making to the most important policies for determining the application. Under the new NPPF, the relevant housing policies in the Local Plan (2, 5 and 45) which were previously considered out-of-date when measured against a requirement to demonstrate a 5YHLS, are no longer out-of-date when measured against the requirement for a 4YHLS which the Council is able to demonstrate. By virtue of housing policies which are temporarily not out-of-date and a 4YHLS, officers maintain that the tilted balance is not engaged and the Council is able to determine the application on the basis of a flat balance.

- 4.8 At the recent Land off Main Road Birdham appeal for 150 homes (21/01830/OUT, APP/L3815/W/23/3319434), the Inspector in reaching her decision on 9 February 2024 was required to assess the proposals in light of the revised NPPF and the changed position regarding the 5YHLS. The Inspector took the view that as a result of the transitional arrangements, the new position on housing supply did not apply because the application was submitted before December 2023 and therefore the original 5YHLS requirements applied (as opposed to the revised 4 year supply). The Council could not demonstrate a housing supply against a 5 year requirement, the most important Local Plan policies 2, 5 and 45 were out of date and in her judgment therefore the tilted balance still applied. However, in her concluding remarks the Inspector opined that irrespective of whether the transitional arrangement applied, i.e. whether the application should be assessed on the basis of a tilted balance or whether it should be against an 'untitled' flat balance under S.38(6) of the Planning and Compulsory Purchase Act 2004, the conflicts identified with the development plan as a whole, were significantly and demonstrably outweighed by the identified benefits, principally the delivery of new housing.
- 4.9 The context at Birdham whilst not the same as Charmans Field has some direct parallels. For example, both cases are for major housing developments on the edge of settlement boundaries and both were submitted prior to the issue of the revised NPPF. Adopting a similar stance to the final remarks of the Main Road Inspector, officers are of the opinion that whether Charmans Field is assessed under the flat balance which officers consider to be the correct approach (notwithstanding the timing point of the transitional arrangements) or under the tilted balance, this should not alter the Committee's resolution on the application. The Council's housing land supply is greater than 4 years, but not by a significant margin. The applicant has made it clear that should the application now be refused contrary to the previous Committee resolution then this is likely to be a matter challenged at appeal. To this effect, the applicant has already prepared information to indicate that it does not accept the Council has a 4 year supply and that the supply is less than 4 years. Officers consider that the government's revised position in NPPF para 226 and at 11 d) footnote 8 offers but a temporary hiatus for the Council and that to simply pull up the drawbridge at this point and stop permitting new housing applications during this 2 year period is not a tenable approach.
- 4.10 For the reasons set out in the November Committee report attached at Appendix 1, Charmans Field is considered an acceptable site for the housing development, which carries substantial weight in the planning balance, and with no technical objections such as cannot be addressed by the recommended conditions. To take a contrary view and refuse the application at this very late stage when the legal agreement is prepared and ready to be signed would result in an appeal. With a

4.19 years housing supply and a recent history of speculative major housing appeals being upheld by Inspectors primarily on the basis that they will provide more housing in sustainable locations, the Committee is strongly advised to re-affirm its previous position and permit the development.

### **Background Papers**

The application, and all submitted documents, can be viewed online at:

<https://publicaccess.chichester.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

**Appendix 1:** Officers report to Planning Committee 8 November 2023.