

Chichester District Council

Planning Committee

27 March 2024

Land South of West View Cottages South Lane Southbourne West Sussex PO10 8QE (LPA ref. SB/22/00593/FUL)

Proposal: Construction of 7 no. dwellings with access from South Lane together with associated parking and landscaping

1. Contacts

Report Author:

Calum Thomas Senior Planning Officer (CDC Majors and Business)

Tel: 01243 534734 E-mail: cthomas@chichester.gov.uk

2. Recommendation

- 2.1 **The Committee is asked to note the contents of this report and endorse the resolution of the 4 October 2023 Planning Committee to defer the application for S106 and then permit subject to:**
- i. conditions as set out in Appendix 1

3. Background

- 3.1 On 4 October 2023 the Planning Committee resolved to permit the above proposed development subject to conditions, as set out in the Committee report at Appendix 1 and the completion of a S.106 agreement to secure the necessary financial contributions to make the application acceptable in planning terms. The S.106 agreement was completed on the 26 January 2024, but the decision notice has not yet been issued.
- 3.2 Prior to completing the S106 agreement, the Government has published the revised National Planning Policy Framework (NPPF) (on 20 December 2023). The revised NPPF is relevant to this application in that it introduces a change to the way in which the 5-year housing land supply (5YHLS) is calculated. The Committee will recall that the Council's 5YHLS position was an important consideration in the recommendation made within the report considered by the Committee in October. 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 this application has a Committee resolution to permit, given that the application is not yet determined, Officers consider that it is necessary to revisit the Committee resolution made five months ago following the change in national policy through the NPPF on housing land requirements.
- 3.4 In addition, since the October resolution, the Southbourne Modified Neighbourhood Plan (referendum modified plan) 2014-2029 now forms part of the Development

Plan, after the 27 February Full Council meeting resolved to 'make' the Neighbourhood Plan. Policy SB14 'Biodiversity' of the Southbourne Modified Neighbourhood Plan will carry full weight in consideration of the application at the 27 March committee.

4.0 Main Report

- 4.1 The following text shall be read in conjunction with the Officer's report to the October Committee which is attached at Appendix 1.

Housing Land Supply

- 4.2 At the time the Committee made its resolution in October 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. In this circumstance, 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. In the case of West View Cottages both circumstances applied. In combination, the Committee report acknowledged the scheme was contiguous with the settlement and scored highly when considered against the remaining relevant criteria of the Council's Interim Position Statement (IPS). Accordingly, when carrying out the final planning balance, it was considered to fall firmly in favour of approving the development, particularly given the shortfall in the housing supply and the acknowledgement of the weight which government policy attaches to significantly boosting the supply of homes and the.
- 4.3 With the issue of a 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 of 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 December 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. As of the 27 March the Council will already be three months into that temporary two-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 11d) 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 19 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 West View Cottages, being a small-scale housing scheme, there are some direct parallels. Notably, both cases are very close to the edge of settlement boundaries, and both were submitted prior to the publication of the revised NPPF. Adopting a similar stance to the final remarks of the Main Road Inspector, Officers are of the opinion that whether West View Cottages 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 and is likely to be challenged at Appeal. 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, particularly in respect of schemes that benefited from a resolution to grant planning permission.

- 4.10 Accordingly, for the reasons set out in the October Committee report, West View Cottages is considered an acceptable site for housing development, scoring highly against the IPS, which remains a helpful tool in considering the merits of a proposal, 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 at an advanced stage of preparation would result in an Appeal. In addition, with a 4.19-year 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, it is recommended that the Committee re-affirms its previous position and permits the development.

Biodiversity Net Gain

- 4.11 Whilst the West View Cottages application was submitted ahead of the national legislative requirement for 10% Biodiversity Net Gain (BNG), which is set to become mandatory for minor planning applications received from the 2 April 2024, Policy SB14 in the Southbourne Neighbourhood Plan requires 'at least a 10% net gain in biodiversity'.
- 4.12 As detailed within the October Committee report, due to previous clearance of vegetation of the site, Officers required the applicant to demonstrate compensation for this, through the BNG metric and a detailed ecology report. The development seeks to deliver a variety of on-site improvements, including an on-site orchard, 200m of hedgerows and the enhanced ecology buffer, which has resulted in a 10.58% BNG. On this basis, and as previously concluded, the application is acceptable in accordance with Policy SB14 of the Southbourne Modified Neighbourhood Plan.

Conclusion

- 4.13 In considering the above, and the original recommendation of the Officer's Committee report, the proposal would result in a high-quality residential development, which would be acceptable in all aspects, including its sustainable location, impact upon the character of the area and relationship with neighboring properties. It would have an acceptable ecological impact, in that it achieved Nitrogen Neutrality, delivered BNG and contributes towards the Green Ring, in accordance with Policy SB14 of the Southbourne Modified Neighbourhood Plan. It would also help to deliver seven dwellings, making a further contribution towards the Council's housing supply. Accordingly, it is recommended that the Committee re-affirms its previous position and resolves to permit the development.

Background information

The application, and all submitted appeal documents, can be viewed online at: [22/00593/FUL | Construction of 7 no. dwellings with access from South Lane together with associated parking and landscaping. | Land South Of West View Cottages South Lane Southbourne West Sussex PO10 8QE](#)

Appendices:

Appendix 1: Committee Report for Land South of West View Cottages South Lane
– 04 October 2023 Planning Committee