



# Public Document Pack

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Committee Manager Andrew Bishop (ext. 37984)

5 May 2021

## **SPECIAL DEVELOPMENT CONTROL COMMITTEE**

A Special meeting of the Development Control Committee will be held virtually via Zoom on **Tuesday 18 May 2021 at 1.30 pm** and you are requested to attend.

Members: Councillors Bennett (Chair), Thurston (Vice-Chair), Blanchard-Cooper, Bower, Charles, Coster, Edwards, Hamilton, Kelly, Lury, Pendleton, Roberts, Tilbrook, Warr and Yeates

***PLEASE NOTE:*** *This meeting will be a 'virtual meeting' and any member of the press and public may listen-in and view the proceedings via a weblink which will be publicised on the Council website at least 24 hours before the meeting.*

*This Council's revised Rules of Procedures for 'virtual meetings' can be viewed here [click here](#)*

**PLEASE NOTE THAT THE ORDER OF THE AGENDA MAY BE ALTERED AT THE DISCRETION OF THE CHAIRMAN AND SUBJECT TO THE AGREEMENT OF THE MEMBERS OF THE COMMITTEE**

**PLEASE ALSO NOTE THAT PLANS OF THE APPLICATIONS DETAILED IN THE AGENDA ARE AVAILABLE FOR INSPECTION ON LINE AT [www.arun.gov.uk/planning](http://www.arun.gov.uk/planning)<<http://www.arun.gov.uk/planning>>**

## AGENDA

### 1. APOLOGIES FOR ABSENCE

### 2. DECLARATIONS OF INTEREST

Members and Officers are reminded to make any declarations of pecuniary, personal and/or prejudicial interests that they may have in relation to items on this agenda and are reminded that they should re-declare their interest before consideration of the item or as soon as the interest becomes apparent.

Members and officer should make their declaration by stating:

- a) the application they have the interest in
- b) whether it is a pecuniary, personal and/or prejudicial
- c) the nature of the interest
- d) if it is a prejudicial or pecuniary interest, whether they will be exercising their right to speak to the application

### 3. VOTING PROCEDURES

Members and Officers are reminded that voting at this Committee will operate in accordance with the Committee Process as set out in the Council's adopted Planning Local Code of Conduct for Members and Officers at Part 8 of the Constitution. A copy of the Planning Local Code of Conduct can be obtained from Planning Services' Reception and is available for inspection in the Members' Room.

### 4. MINUTES

(Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 28 April 2021.

### 5. ITEMS NOT ON THE AGENDA WHICH THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

### 6. FITZALAN LINK ROAD ACOUSTIC FENCE

(Pages 5 - 12)

The acoustic fence was granted permission under permission LU/234/16/RES at Arun's Development Control Committee on 17 October 2017. This report invites the Committee to consider whether they wish to investigate options around amending/withdrawing the permissions granted and commission an independent report to undertake a review of previous decisions and to provide advice on possible actions available to the Council.

Note : Reports are attached for all Members of the Committee only and the press (excluding exempt items). Copies of reports can be obtained on request from the Committee Manager.

Note : Members are reminded that if they have any detailed questions would they please inform the Chairman and/or relevant Director in advance of the meeting.

Note : Filming, Photography and Recording at Council Meetings - The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link – [Filming Policy](#)

These meetings are webcast live.

To watch recorded webcasts use the following link - Development Control [Webcast Page](#)

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## DEVELOPMENT CONTROL COMMITTEE

28 April 2021 at 1.30 pm

Present: Councillors Bennett (Chair), Thurston (Vice-Chair), Blanchard-Cooper, Bower, Charles, Coster, Edwards, Hamilton, Kelly, Lury, Pendleton, Roberts, Tilbrook, Warr and Yeates

[Note: The following Councillors were absent from the meeting during consideration of the matters detailed in the Minutes indicated – Councillor Tilbrook – Minute 520 (Part)].

### **Chair's Announcement**

Before the Chair commenced the meeting, he reminded Members that the politically restricted pre-election period for the May 2021 elections had now commenced and that this had two consequences. Firstly, the Council could not carry out publicity or events which were designed to show support for a political party. The Chair therefore asked Members to be careful to address the issues and not use the meeting as a platform for political purposes. He warned that anyone who infringed the rule would not be allowed to speak further in the meeting. Secondly, this meant that any person who used this meeting for political publicity took the risk that the cost of this meeting would be counted towards their election expenses or of the candidate they were supporting.

### 540. DECLARATIONS OF INTEREST

Councillor Coster declared a Personal Interest in Agenda Item 8 [LU/50/21/PL] as Cabinet Member for Commercial and Business Development. He confirmed he would not take part in the vote and would only speak to correct misunderstandings.

Councillor Tilbrook declared a Prejudicial Interest in Agenda Item 8 [LU/50/21/PL] as the site under discussion was observable from his home. He confirmed he would be removed from the meeting for the duration of the item and vote.

Councillor Blanchard-Cooper declared a Personal Interest in Agenda Item 8 [LU/50/21/PL] as a family member owned a beach hut on the site being discussed.

### 541. MINUTES

The Minutes of the meeting held on 31 March 2021 were approved by the Committee.

### 542. BN/17/21/PL - THE COTTAGE, HIGHGROUND LANE, BARNHAM PO22 0BT

1 No. new dwelling. This application is a Departure from the Development Plan & is in CIL Zone 3 & is CIL Liable as new dwelling.

The Planning Team Leader presented his report with updates.

Development Control Committee - 28.04.21

Members then took part in a full debate on the application where a number of points were raised including the retention of a substantial tree on the site, protection of the tree in the approval conditions during construction but not subsequently and whether a Tree Preservation Order was something that should be pursued, the loss of light to the proposed development from the tree, the conditions and whether there should be any placed on removed and then replaced landscaping, concerns around the narrowness of entrances and whether there was sufficient parking on the site for the existing and proposed development.

The Planning Team Leader and Group Head of Planning provided members with answers to all points raised during the debate.

The Committee

RESOLVED

That the application be APPROVED CONDITIONALLY as detailed in the report and report update subject to the conditions outlined.

543. K/6/21/PL - 68 GOLDEN AVENUE, EAST PRESTON BN16 1QU

1 Public Speaker

Cllr Roger Wetherall, Kingston Parish Council

Variation of conditions 2 and 3 imposed under K/9/20/HH to change materials and finishes from those approved.

The Principal Planning Officer presented her report with updates. This was followed by a Public Speaker.

Members then took part in a full debate on the application where a number of points were raised including the issue of the dark grey colour proposed and Members' personal misgivings about it, the colour in relation to both the parish council's design guide and neighbourhood plan, the colour's appropriateness for a domestic dwelling and how in-keeping it was with neighbouring properties, that the proposed change was from a lighter to darker grey, the reality that there was much variation in style and colour across the housing of the immediate area, disappointment at the deviation from previously approved conditions and whether colour was even a planning consideration as it could be changed in the future unless permission was granted with restricted permitted development rights

The Principal Planning Officer and Group Head of Planning provided members with answers to all points raised during the debate.

The Committee

RESOLVED

That the application be APPROVED CONDITIONALLY as detailed in the report and report update subject to the conditions outlined.

544. LU/50/21/PL - LITTLEHAMPTON PROMENADE, SOUTH OF PUTTING GREEN, SEA ROAD, LITTLEHAMPTON

*(Councillors Coster and Blanchard-Cooper redeclared their Personal Interests made at the start of the meeting. Councillor Tilbrook redeclared his Prejudicial Interest and was removed from the meeting for the duration of the item.)*

The Principal Planning Officer presented her report with updates. Members then took part in a full debate on the application where a number of points were raised.

The principal concern among Members was the location of the proposed additional beach huts, particularly those at the bottom of Norfolk Road, and whether the additional huts would block the current gaps between the existing huts too much. It was raised that the huts would be less attractive to tourists than the sea views they would potentially be limiting and the infrequency of their use would be denying more people a visual aspect of the beach. The Cabinet Member for Commercial and Business Development confirmed that other locations had been looked at and had been ruled out.

Concerns were also raised about accessibility for wheelchair users and others for whom entry to the huts via the shingle beach would create difficulties and whether slight differences in colour between the old and new huts would have a detrimental impact on the view.

Though Members appreciated the commercial and economic benefits of having more beach huts and acknowledged that there was demand for more huts to be available, these were not considerations for this committee which was solely purposed to find on material planning considerations. Members spoke of their disappointment with the process of this planning application, whether it was being treated differently because it was a Council application, the need for more information to inform final decisions and whether the principles of the application should have been dealt with in committee before coming to the Development Control Committee.

The Principal Planning Officer and Group Head of Planning provided members with responses to all points raised during the debate.

Councillor Bower put forward a proposal for deferral until the application had been considered by the appropriate service committee for the developer side of matters, which was seconded by Councillor Pendleton. This was subsequently withdrawn and discussion moved to refusal of the application upon which the original recommendation was put to the vote and LOST and therefore,

Development Control Committee - 28.04.21

The Committee

RESOLVED

That the application be REFUSED given the number and position of the proposed beach huts and the lack of accessibility detail, the development would adversely affect the visual amenities of the locality in conflict with policies D DM1, DSP1 and LAN DM1 of the Arun Local Plan and policy SCP-1 of the South Inshore and Offshore Marine Plan.

545. APPEALS

The Committee received and noted the appeals list within the agenda. One Member asked how long on average the appeals process took and this was responded to by the Group Head of Planning who confirmed that, depending on the complexities of the application, this could be upwards on two to three months.

(The meeting concluded at 3.06 pm)



## ARUN DISTRICT COUNCIL

### REPORT TO AND DECISION OF SPECIAL DEVELOPMENT CONTROL COMMITTEE ON 18 MAY 2021

#### REPORT

**SUBJECT:** Fitzalan Link Road, Littlehampton

**REPORT AUTHOR:** Neil Crowther, Group Head of Planning

**DATE:** 28 April 2021

**EXTN:** x 37839

**PORTFOLIO AREA:** Planning

#### EXECUTIVE SUMMARY:

The acoustic fence was granted permission under permission LU/234/16/RES at Arun's Development Control Committee on 17 October 2017. This report invites the Committee to consider whether they wish to investigate options around amending/withdrawing the permissions granted and commission an independent report to undertake a review of previous decisions and to provide advice on possible actions available to the Council.

#### RECOMMENDATIONS:

To agree one of the following two options;

1. Acknowledge that the acoustic fence being erected on site is lawful and conclude that the Council's position remains unchanged from previous decisions, or,
2. The Committee recommend to Full Council that a supplementary estimate be agreed for up to £15,000 to fund the commissioning of an independent expert to undertake the following actions.
  - a) Review the decisions already taken to establish if there are any issues (process and judgement)
  - b) Identify what legal options exist for securing changes to the acoustic fence
  - c) What are the implications of (2) above, including financial (compensation) and legal.

**1. BACKGROUND:**

**Planning History**

1.1 Planning application LU/63/11 granted outline planning permission for the northern section of the Fitzalan Link Road in June 2012. This was considered at Development Control Committee on 1 December 2011. The proposal was for approximately 800m of road linking the A259 to the new road created to access the Littlehampton Academy that was being constructed at that time. At that time, it was proposed as a road capable of having a 40 mph speed limit.

1.2 Whilst the application was only in outline form, the report noted *'the existing boundary fences along the rear gardens of Rosemead, Paterson Wilson Road, Highdown Drive and Amberley Close, some of which are low, open or in a poor state of repair, and will not be very effective noise barriers, will be upgraded to 2m close boarded, double lapped timber fences as part of the scheme.'* ..... *'The Council's Environmental Health Officer confirms that noise will have a substantial effect upon a number of residents located close to the proposed road. He considers that further mitigation should be investigated.'*

1.3 Full details of design and acoustic impacts were not to be considered at outline stage. Therefore, condition 18 of that permission reads;

*'No development shall take place until a scheme of noise mitigation measures to reduce the impacts of noise from the proposed highway affecting residential or commercial properties in the area has been submitted to and been approved in writing by the local planning authority. This shall include details of the height, specification and positioning of noise barriers.*

*The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.'*

1.4 Planning application LU/234/16/RES granted reserved matters approval for the details of the proposed road in October 2017. This was considered at Development Control Committee on 18 October 2017. Three representations were received through the consultation process on this application.

1.5 This application stated that the road had been designed to facilitate a 40mph speed limit at the request of WSCC and stated *'the applicant's noise consultants have confirmed that a 3.5 metre noise barrier, imposed by means of a condition, would provide sufficient noise mitigation relating to a speed limit of 40 mph.'*

The report went on to state;

*'Revised noise modelling has been carried out for the whole length of the Link Road including properties TR39-TR42. to reflect the change from 30 mph to 40 mph; everything south of the signal crossing and roundabout is proposed to be 30mph. The EHO is satisfied with the results of the noise modelling.'*

*'The erection and retention of a 3.5 metre high acoustic barrier alongside the Link Road, backing onto the rear gardens of residential properties will have a visual impact upon the amenity of local residents, but this needs to be measured against the noise emissions from the vehicles travelling along the Link Road. It is considered that the higher the acoustic barrier is, the lower the noise emissions and the lower the acoustic barrier is, the higher the noise emissions will be. On balance, it is considered that the visual impact of a 3.5 metre high acoustic barrier is acceptable when measured against the noise levels emitted by vehicles on the Link Road.'*

1.6 As part of the reserved matters application (LU/234/16/RES) details were included showing the location of the acoustic fence with an offset of approximately 1.0 metre to the boundary of the site, for maintenance purposes. A gated track is to be installed behind the acoustic fencing to enable access for maintenance purposes.

1.7 Condition 7 attached to LU/234/16/RES stated

*'Prior to the commencement of development, details of the 3.5 metre high acoustic barrier shall be submitted and be approved by the Local Planning Authority. The Link Road shall not be brought into use until such acoustic barriers have been completed.'*

1.8 Application LU/426/17/DOC was submitted to discharge details of condition 7 and was approved in June 2018 under delegated powers granted to the Group Head of Planning. This granted permission for the fence to be constructed of timber panels.

1.9 Application LU/366/19/DOC was submitted to discharge details of condition 7 and was approved in April 2020 under delegated powers granted to the Group Head of Planning. This granted approval to change the materials from timber to galvanised steel. The change was proposed due to the greater longevity of this system. A Timber Close Boarded acoustic fence has an expected life span of 10 to 15 years whereas the Weathered Steel has an expected life span of 60+ years. This would reduce therefore maintenance and enable planting in front of the acoustic fence to establish.

## **2.0 Commentary**

2.1 As can be seen above, since the first permission, there has always been a proposed acoustic fence sited to the west of the new link road to the rear of properties in Highdown Drive. WSCC sought for the speed limit to be 40mph and sought a fence design which reflected this. This resulted in a need for an acoustic barrier 3.5m in height and this was approved at the Council's Development Control Committee in October 2017.

2.2 Subsequent discharge of condition applications have related to the materials of the acoustic fence only with the height remaining at 3.5m and no changes to the siting of the fence.

- 2.3 It has to be stated at the outset that the applicant is currently implementing their planning permissions in accordance with the approved details. The Council does not have any evidence that works being carried out are not in accordance with the planning permissions granted and there is no unlawful activity taking place on the site.
- 2.4 Following a number of complaints, the Council has approached the applicant (Persimmon Homes) to request that work on site is paused and to find out if any changes to the fence are possible. They have confirmed that they have been through a lengthy planning process with legal and technical documents and that financial commitment have been made regarding the fence and its erection. They do not consider that a 2.5m high fence will have the desired noise mitigating results.
- 2.5 There has been a lot of reference to a 2.5m high fence in recent correspondence but it is unclear where a 2.5m suggestion has come from as it was never within any application submissions. It is unclear where many residents have the impression that a 2.5m high fence was to be erected because all detailed permissions have been for a 3.5m high fence.
- 2.6 Following complaints to the Council in Feb/March 2021, Group Leaders & Cabinet (22 March 2021) have expressed a desire to consider what options are open to Council at this time that may address some of the complaints concerning the height of the fence.
- 2.7 There have been some comments from Ward Member and members of the public that a change in the speed limit of the road to 30mph would result in the need for an acoustic fence to be only 2.5m in height. Following the complaints about the barrier, Persimmon have stated that they instructed their consultants to undertake a review of the noise assessment data and to review the noise model. They conclude that the impact of reducing the height of the acoustic fence to 2.5m results in an increase in noise levels. And, even if the road was re-designed to be compliant for a 30mph speed limit, this would not achieve sufficient noise reduction to make a 2.5m acoustic fence an acceptable noise mitigation solution. It should be noted that the Council has not been provided with a copy of this technical work to comment upon.
- 2.8 However, in September 2019, Persimmon did investigate whether a lower fence (lower than 3.5m) could be installed in response to several nearby residents' complaints. Additional technical information was submitted, and Arun Planning Officers consulted colleagues in Environmental Health. They stated;
- 11/09/19 'I am reminded of recent nearby residents' opposition to a 3.5 m acoustic barrier, which they consider as visually intrusive. Such a barrier does however provide an acceptable means of noise attenuation in this case. I believe that the provision of a 3.5 m barrier should stand unless a suitable alternative is provided to us for evaluation.'*

23/09/19 *'In respect of proposed reduction in height of the proposed acoustic fence to 3.0 - 3.2m. Having considered the contents then the Environmental Health Department will accept that reasonable noise mitigation measures will be achieved in this case and we agree to discharge of Condition 18 on this basis'*

- 2.9 In November 2019, Persimmon confirmed that they intended to submit a DOC application with the height of the fence remaining at 3.5m. It is understood that Persimmon and WSCC were concerned about future complaints concerning noise and compensation from a fence of a lower height. Arun DC contacted Persimmon Homes in January 2020 and requested whether they would be willing to consider re-designing the acoustic fence. A response was received on the 16/01/20 in which Persimmon Homes confirmed that they re-visited the height of the fence with their noise consultants and confirmed that they considered that the 3.5m high fence was an appropriate response. They confirmed that WSCC were happy with the proposals/solution put forward and are willing to adopt the fence.
- 2.10 The acoustic fence is being offered for adoption to West Sussex County Council as a Highway structure. It will be inspected by the Structures Team at WSCC every two years. As part of their inspection, they are required to be able to access both sides of the structure. Therefore, this requires clear access of the maintenance strip to allow these inspections to take place. This maintenance strip has not been amended and the fence is being erected in the position shown on the approved drawings.
- 2.11 The acoustic fence has gates positioned within in it to allow West Sussex County Council officers access; all gates will be locked. Planting along the Fitzalan Link Road is being installed by Persimmon Homes in accordance with their planning permission. Persimmon Homes have entered into a Legal Agreement with West Sussex County Council that requires them to maintain all elements of the works, including planting, until the road is adopted by the County Council. Prior to the adoption of the road by the County Council an inspection will take place on all elements of it and any defects rectified.
- 2.12 There have been some comments made about the adequacy of the consultation process of the above planning applications. I can confirm that all of the applications were advertised and consulted upon in line with the Council's adopted policy. Advertisements were places in the requisite publications and site notices were erected on Highdown Drive.

## 2. PROPOSAL(S):

This report has been prepared because members wished to consider the facts and discuss what options are available to them. Essentially, there are two options at this time;

1. Acknowledge that the acoustic fence being erected on site is lawful and conclude that the Council's position remains unchanged from previous decisions.
2. If Committee are of the view that they wish to seek potential for change from previously decisions they have taken, it would involve considering revocation or discontinuance. Both would have significant implications around resources, compensation and lawfulness. Officers are not yet in a position to be able to advise on all potential options and implications on these. Therefore,

The Committee recommend to Full Council that a supplementary estimate be agreed for up to £15,000 to fund the commissioning of an independent expert to undertake the following actions.

- a) Review the decisions already taken to establish if there are any issues (process and judgement)
- b) Identify what legal options exist for securing changes to the acoustic fence
- c) What are the implications of (2) above, including financial (compensation) and legal.

## 3. OPTIONS:

Options set out in section 2 of this report.

## 4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		x
Relevant District Ward Councillors	x	
Other groups/persons (please specify)		

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	x	
Legal	x	
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		x
Other (please explain)		

**6. IMPLICATIONS:**

If option 2 is decided, then there would be financial implications in terms of expenditure and potential compensation. There are would also be legal issues around what options are available to the Council.

**7. REASON FOR THE DECISION:**

To either;

- a) Agree that lawful development should continue.
- b) Agree that options are investigated.

**8. BACKGROUND PAPERS:**

[DCC Agenda 18 October 2017](#)

[DCC Minutes 18 October 2017](#)

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