

SPECIAL DEVELOPMENT CONTROL COMMITTEE

23 January 2019 at 2.30 p.m.

Present: Councillors Bower (Chairman), Haymes (Acting Vice-Chairman), Ambler (substituting for Councillor Mrs Bence), Mrs Bower, Brooks, Cates, Charles (substituting for Councillor Mrs Pendleton), Dillon, Mrs Hall, Haymes, Mrs Oakley, Oliver-Redgate, Mrs Rapnik, Miss Rhodes and Mrs Stainton.

[Note: Councillor Dillon was absent from the meeting during consideration of the matters referred to in Minutes 370 (from Planning Application Y/91/17/OUT) and 371.]

Councillors Mrs Brown and Hitchins were also in attendance for part of the meeting.

364. APPOINTMENT OF VICE-CHAIRMAN

In the absence of the Vice-Chairman of the Committee, the Committee agreed that Councillor Haymes should take the role for the meeting.

365. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Mrs Bence and Mrs Pendleton.

367. DECLARATIONS OF INTEREST

Declarations of interest were made as follows:-

Planning Applications Y/91/17/OUT and Y/92/17/OUT – Councillor Haymes declared a personal interest as Chairman of Yapton Parish Council and stated that he had taken no part in the debate or voiced an opinion on the applications. He also advised that he had a further personal interest as Chairman of the Yapton, Ford and Climping Advisory Group where the applications had been discussed with Arun Planning Officers, the applicants, and representatives from the parishes, together with other stakeholders, with regard to obtaining S106 contributions needed to mitigate the impact on the existing infrastructure and services. Again he had not voiced an opinion. He had also been party to meetings with the NHS Clinical Commissioning Group regarding Primary Healthcare within the 3 parishes.

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Planning Applications Y/91/17/OUT and Y/92/17/OUT – Councillor Ambler declared a personal interest as a member of Yapton Parish Council's Planning Committee and stated that he had expressed no opinion on the applications.

Planning Applications P/6/17/OUT and P/25/17/OUT - Councillor Mrs Hall declared a personal interest as a member of Pagham Parish Council where the applications had been discussed and stated that she had not expressed any opinion. Additionally, she had attended meetings of the Pagham Action Group but had not spoken publicly or expressed an opinion one way or another.

Planning Applications P/6/17/OUT and P/25/17/OUT – Councillor Dillon declared a personal interest as he lived in Pagham.

368. PLANNING APPLICATIONS A/40/18/OUT AND AGENDA ITEM 7, PLANNING APPLICATION A/99/17/OUT

The Chairman advised that Planning Application A/40/18/OUT had been withdrawn from the agenda and Planning Application A/99/17/OUT had been deferred.

369. PLANNING APPLICATION P/6/17/OUT – OUTLINE APPLICATION WITH SOME MATTERS RESERVED FOR CONSTRUCTION OF UP TO 300 NO. NEW HOMES, CARE HOME OF UP TO 80 NO. BEDS, D1 USES OF UP TO 4000SQM , INCLUDING A 2 FORM ENTRY PRIMARY SCHOOL, ETC, LAND NORTH OF HOOK LANE, PAGHAM

The Principal Planning Officer reminded the Committee that this application had been deferred from the meeting held on 13 November 2018 to enable an independent assessment of the submitted road safety audit (RSA) to be undertaken. The conclusions of the resultant review were detailed in the report update included in the agenda which, in summary, stated that the subsequent RSA team and the checks undertaken by the Local Highways Authority (LHA) had not identified any outstanding significant road safety risk which could not be resolved as part of the detailed design. Further checks on road safety issues should be considered as part of a Stage 2 RSA on the detailed design and the consultants recommended that a formal brief for this next stage be submitted to the LHA prior to it being undertaken.

The Principal Planning Officer advised that, based on the findings of the RSA Audit Review, it was not considered that there were any outstanding safety issues associated with the proposed accesses that would not be satisfactorily addressed through the proposed conditions and at the detailed design stage through the Stage 2 RSA. However, it was highlighted that the following condition recommended to be included by the LHA had been omitted from the original report and was required to be added to the conditions:-

No part of the development shall be first occupied until plans and details of the proposed pedestrian and cyclist access points have been submitted to and approved in writing by the Local Planning Authority. The approved access points shall thereafter be constructed in accordance with a phasing plan or timetable as may be agreed with the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy T SP1 of the Arun Local Plan.

In presenting the detail of the application, Members were directed to the written officer update, circulated at the meeting, which provided a response to matters raised by Pagham Parish Council and a minor amendment to the recommendation to replace “association” with “consultation”.

The Principal Planning Officer also verbally advised the Committee of the following:-

- The omitted condition detailed above be amended to address the concerns of Pagham Parish Council to read:-

No part of the development shall be first occupied until details of the proposed pedestrian and cyclist access points, as identified on drawing No. JNY8840-09, have been submitted to and approved in writing by the Local Planning Authority. The access points shall thereafter be constructed in accordance with a phasing plan or timetable as may be agreed with the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy T SP1 of the Arun Local Plan.

- A letter had been received from Pagham Parish Council on 21 January 2019 which made specific reference to the conclusions of the Planning Inspector in the determination of Planning Application P/14/99, specifically, in relation to the built-up area boundary. As Members would recall, that was raised prior to and during the reconvened meeting on 24 October 2018. The refusal reasons for this historic application had been considered and dealt with through the Local Plan Examination (Built up area boundary, landscape, sustainability and housing land supply).

Objections had also been raised in relation to the Road Safety Audit submitted in support of this application.

- An objection had been received from the Sussex Wildlife Trust, with specific reference to cumulative impacts of development upon Green Infrastructure

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and that the impact of these allocations had not been better assessed during preparation of the Local Plan.

Following the officer's presentation, legal advice was given by the Council's Locum Barrister with regard to a query that had been raised in respect of the Committee's power to delegate decision making. He confirmed that the Council's Constitution, together with legislation, gave the Committee power to delegate as it saw appropriate – the Committee could therefore make its decision and delegate that decision to be made following receipt of any consultation responses.

Members then participated in a full debate relating to a variety of issues that had been aired at the meeting on 24 October 2018, including

- Serious concerns with regard to highway issues and the findings of the review of the RSA did not lessen those concerns
- Education
- Sewerage and foul water drainage, particularly into Pagham Harbour

Whilst the Principal Planner did address the matters raised at this point in the meeting, the Group Head of Planning reminded Members that the Committee should not be raising matters already debated at the meeting in October as it had not asked for changes to the application at that time, only that an independent assessment of the RSA be undertaken and that was now on the table for consideration.

A Member view was expressed that the application site was of strategic importance in the approved Local Plan and, whilst acknowledging the concerns raised, it should be approved with the proviso that the reserved matters application should come before the Committee for determination.

Member comment was also made that the highways issues raised in the debate in fact related to existing problems with the local highway network and, as such, could not be related to this application. That view was challenged as it was felt that the impact of such large scale development in the area would be so detrimental as to cause major issues which would not be addressed by the mitigation measures proposed and that improvements to the road network must come first. However, advice was given by officers at the meeting that each planning application had to be considered on its own merits and infrastructure improvements could not be required of the applicant to resolve existing problems, which was also supported by existing legislation.

An amendment was formally proposed and seconded that the reserved matters application should be determined by the Committee rather than under delegated powers. The Group Head of Planning agreed that this could happen as an agreement to be an exception to the Scheme of Delegation.

Following the officer's advice, the amendment was not voted on and did not go forward.

The Committee then voted on the substantive recommendation and did not support the officer recommendation to approve. The Group Head of Planning advised that he had not picked up from Members during the course of debate any valid planning reasons for refusal that could be defended at appeal and he asked Members to now give that consideration. Highways matters was put forward as a reason and it was suggested and agreed that a short adjournment be called to enable officers to formulate suitable wording for a reason on those grounds that would be defensible at appeal.

On recommencement of the meeting, the Group Head of Planning stated that a planning reason for refusal had been formulated but as part of his role, he was duty bound to advise Members that firstly, the highways impact had not been the reason for deferral at the last meeting and so the correct process was not being followed in bringing that issue up at this meeting as a reason to refuse the application. Secondly, officers from the County Council would not be presenting evidence to defend the reason at any subsequent appeal as they had considered the highways evidence and were satisfied that the impacts could be mitigated and were not severe. Further, the Council had instructed an independent consultant to assess these same details and their view was also that the application was acceptable, subject to mitigation measures. The Group Head of Planning considered that the grounds for refusal were exceptionally weak and was extremely concerned with the potential for the applicant going to appeal and significant costs being awarded against the Council.

However, the Committee

RESOLVED

That the application refused for the following reason:-

“The increased vehicle movements generated by the application will exacerbate the capacity issues on the local highway network and the mitigation measures proposed are insufficient to overcome the safety concerns resulting from the additional vehicle movements contrary to policy TSP1 of the Arun Local Plan.”

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370. PLANNING APPLICATIONS

A/40/18/OUT – Outline application with some matters reserved for the development of up to 525 residential dwellings (Class C3), 3 ha (gross) of employment land (Class B1), public open space, play areas, access, associated infrastructure and landscaping, Land North of Water Lane, Angmering Having received a report on the matter, the Committee was advised that this matter had been deferred

P/25/17/OUT – Outline application with all matters reserved for erection of up to 65 No. dwellings, access roads, landscaping, open space & associated works, Church Barton House, Homs Lane, Pagham Having received a report on the matter, the Committee was advised by the Principle Planning Officer of the detail of the officer's written report update which addressed the following:-

- Responses to matters raised by Pagham Parish Council in its submissions following publication of the officer report.
- An additional representation received regarding over 1,000 Brent Geese feeding in the field east and southeast of Church Barton House
- A correction to the recommendation to amend the word “association” with “consultation”

The Principal Planning Officer also verbally informed the Committee that a query had been raised following removal of the access from the description of development, as to whether the application accorded with Article 5(3) of the Town & Country Planning Development Management Procedure Order 2015. This stated that where access was a reserved matter, the application for outline planning permission must state the area where access points to the development proposed would be situated. The proposed layout plan illustrated that the site would be accessed from the adjacent site, which met the requirements.

The Council's Locum Barrister reiterated the advice given in the previous application that the Committee had the power to make a decision today and delegate authority as detailed in the report and the written report update.

In participating in discussion on the matter, views were expressed that did not support the officer recommendation to approve relating to access; proximity to the nature reserve; and biodiversity and ecology concerns. It was also felt that the matter should be deferred until such time as the outcome was known regarding the Judicial Review that had been applied for on the adjoining site.

The Council's Locum Barrister offered advice that the Local Planning Authority had received a planning application that it had a duty to determine. If a S106 Agreement with regard to access was required, that could be achieved through the planning process. In respect of wildlife, the necessary consultation had

been undertaken and evidence was detailed in the report and it would therefore be difficult for the officers to know what additional information was required. In turning to the potential for a Judicial Review, he stated that it was not certain that it would actually take place as a decision had not yet been made on the application for a Review and, in any event, there would be a substantial period of time before it would be dealt with, if approved.

However, it was formally proposed and seconded that the application be deferred but, on being put to the vote, was declared LOST.

The Committee then considered the officer recommendation to approve and

RESOLVED - That

(1) delegated authority be granted to the Group Head of Planning, in consultation with the Chairman and Vice-Chairman to grant planning permission with conditions and informatives as detailed in the report and officer report update after the expiration of the 21 days Parish notification period and subject to the completion of the S106 Agreement; and

(2) authority be delegated to the Group Head of Planning, in consultation with the Chairman and Vice-Chairman to make amendments to the S106 agreement which are substantially in accordance with the Heads of Terms.

As the vote was tied, the Chairman used his casting vote to approve the application.

(Prior to consideration of the following application, Councillors Ambler and Haymes redeclared their personal interest and remained in the meeting and took part in the debate and vote.)

Y/91/17/OUT – Outline application for the development of up to 250 residential dwellings (Class C3), vehicular access, public open space, ancillary works and associated infrastructure. Departure from the Development Plan, Land at Bilsham Road, Yapton Having received a report on the matter, together with the officer's written report update detailing:-

- Correction that the application was not a Departure from the Development Plan as stated in the description of the proposal.
- Correction that the provisional TPO (Tree Preservation Order) should read TPO/Y/4/18 and not TPO/Y/3/18 as detailed in the report.
- Inclusion of the consultation response from the Council's Arboricultural Officer, which had been omitted from the report in error.

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- Advice that an Agricultural Land Classification report (CEN4168) had been submitted in support of the application and which confirmed that the application site was grade 2 and subgrade 3a.
- Clarification with regard to SUDs features and open space provision on site.
- Confirmation from Southern Water that the request for local connection at manhole 8501 was acceptable.
- Amended recommendation to delete that relating to refusal in the event of non-completion of the S106 Agreement.
- Amended conditions, as set out in the update, relating to conditions 3, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 20, 22, 23, 24, 26, 28 and 29, plus an additional informative in relation to the need for formal consent from the Lead Local Flood Authority (WSSCC) or its agent (ADC) being required.
- 3 additional letters of objection received.
- Correction to recommendation to replace “association” with “consultation”
- Officers comments to the foregoing points.

The Principal Planning Officer provided a verbal update relating to:-

1. Education – the LPA (Local Planning Authority) had yet to receive a revised consultation response from WSSCC in relation to primary education. The applicant had advised the LPA of the financial contribution towards primary education as agreed with the County Council and it was on that basis that the Heads of Terms had been prepared.

A written statement had been provide by WSSCC on 18 January 2019 which confirmed a financial contribution of £6,038 per dwelling, as identified in the report and the Heads of Terms. WSSCC had advised that there was no existing capacity within the Arun District and, as such, the education requirements of the strategic allocations exceeded those originally identified within IDP 2017.

From the original consultation undertaken with WSSCC, the financial contributions secured from these sites would be directed towards the provision of the new secondary school or the expansion of St Phillip Howard High School, However, it was now evident that the education requirements within the District generated by the strategic allocations would not be met through just expansion and it had therefore been identified within the Heads of Terms that the financial contribution from this development must be directed towards the new 10FE school with no alternative or fall-back secured within the S106 Agreement.

As notification from WSSCC had been received late, a period of consideration of the County Council’s position was required by the developers. Should the developers not agree to the financial contributions towards secondary

education, then this would impact upon the proposed development's compliance with relevant policies.

2. Library Contributions – It had been identified that previous planning approvals had secured financial contributions of approximately £99,980 and, as such, the funding to deliver a Tier 7 facility had already been secured. Therefore, the financial contribution identified within the Heads of Terms would not be CIL compliant and had been removed from the Heads of Terms.
3. Additional Informative in support of Condition 10 “Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council) or its agent (Arun District Council – land.drainage@arun.gov.uk) prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

Following a presentation on the detail of the application, Member comment was made that, whilst having concerns about large scale developments overtaking the village, these applications were within the Arun Local Plan as strategic sites and it must be recognised that development was therefore inevitable.

The positive aspects of the proposal were highlighted, such as the expansion of the primary school; and the provision of a safe cycleway to Barnham. The contribution in the process of a variety of stakeholders through the Yapton, Ford and Climping Advisory Group was acknowledged and commended and it was recognised that all service providers and stakeholders had responded positively, not only with suggestions to mitigate impacts on the existing infrastructure, but with requests for financial contributions which would be used to reduce the additional impact on their services.

Reservations were expressed with regard to highway improvements taking place at the Oyster Catcher junction rather than the Comet Corner junction, especially as the proposed development would exit on to Bilsham Road, which led directly to Comet Corner. The Comet Corner junction was considered to be highly dangerous when turning right to go towards Middleton and Felpham.

Further Member comment was made that meetings had been held with the NHS Clinical Commissioning Group regarding future primary healthcare within the 3 villages of Yapton, Ford and Climping. Unfortunately, the issues were not straightforward and there were many restrictions on what could and could not be done. However, it was felt that new healthcare provision as part of the strategic allocation at Ford would be the best way forward, rather than making contributions

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towards the Eastergate surgery, which could, in due course, expect funds from the anticipated developments at Barnham, Eastergate and Westergate.

The Committee

RESOLVED – That

(1) planning permission be granted as detailed in the report and the officer report update, subject to completion of the S106 Agreement; and

(2) authority be delegated to the Group Head of Planning, in consultation with the Chairman and Vice-Chairman to make amendments to the S106 Agreement which are substantially in accordance with the Heads of Terms.

(Prior to consideration of the following application, Councillors Ambler and Haymes redeclared their personal interest and remained in the meeting and took part in the debate and vote.)

Y/92/17/OUT – Outline application with all matters reserved save access, for up to 300 dwellings, link road, surface drainage, open space and landscaping. Departure from the Development Plan and access route is within the Yapton (Main Road) Conservation Area, Land east of Drove Lane, Yapton Having received a report on the matter, together with the officer's written report update detailing:-

- Correction that the application was not a Departure from the Development Plan as stated in the report.
- Correction that the provisional TPO (Tree Preservation Order) should read TPO/Y/4/18 and not TPO/Y/3/18 as detailed in the report.
- Amended conditions, as set out in the update, relating to conditions 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 20, 23, 24, 26, 28, 29, 30 and 32 plus an additional informative in relation to the need for formal consent from the Lead Local Flood Authority (WSSC) or its agent (ADC) being required.
- 1 additional letter of objection received.
- Amended recommendation to delete that relating to refusal in the event of non-completion of the S106 Agreement.
- The applicant had provided additional documentation relating to contamination and the Council's Environmental Health Team were satisfied that conditions ENV3 and 6 could be removed. (The Principal Planning Officer subsequently verbally advised at the meeting that this point should be deleted).
- Correction to recommendation to replace "association" with "consultation"
- Officers comments to the foregoing points.

The Principal Planning Officer advised that the matters raised in the previous application (P/Y/91/OUT) applied to this proposal.

In considering the matter, Member comment was also made that the points raised in the previous application were applicable to this proposal.

The Committee then

RESOLVED – That

(1) planning permission be granted with conditions as detailed in the report and officer report update, subject to completion of the S106 agreement; and

(2) authority be delegated to the Group Head of Planning, in consultation with the Chairman and Vice-Chairman to make amendments to the S106 agreement which are substantially in accordance with the Heads of Terms.

371. PLANNING APPLICATION A/99/17/OUT, LAND SOUTH OF WATER LANE, ANGMERING

The Committee had been advised that this matter had been deferred and would not be considered.

(The meeting concluded at 5.03 p.m.)