

Lynnyrd Wolfe

From: Daniel Vick
Sent: 13 June 2019 08:44
To: Lynnyrd Wolfe
Subject: FW: S106 for Wings Nursery - AL/32/19/OUT
Attachments: GCNewt eDNA Report June19.pdf

Importance: High

See action sheet

From: Gareth Giles | Whaleback [REDACTED]
Sent: 12 June 2019 11:07
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: RE: S106 for Wings Nursery - AL/32/19/OUT
Importance: High

Hi Dan,

Please find attached our Great Crested Newt eDNA analysis which was requested by the County Ecologist for this application (although not the last application, as mentioned) and commissioned at considerable expense and haste to meet this committee deadline.

I trust you will be able to provide this to Kate Cole and receive her comments as a late item for the 27th June agenda.

In the meantime, are you able to come back to us on the queries we previously discussed on the phone and my email below?

Did Neil raise any issues with your report?

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK
[REDACTED]

From: Gareth Giles | Whaleback [REDACTED]
Sent: 29 May 2019 15:34
To: 'Daniel Vick' [REDACTED]
Cc: 'Richard Doll' [REDACTED]
Subject: RE: S106 for Wings Nursery - AL/32/19/OUT

Hi Dan,

Thanks for your email enclosing various points. I note the extract of an email from WSCC and will look out for the full wording once uploaded to the Register.

We need some further advice from you about the implications of that WSCC email for the Strategic Highways Infrastructure Contribution because of certain matters I expand on below.

It seems that WSCC have estimated the figure of £7,130-per-dwelling at Wings, expediently rather than evidentially, as Tim's email confirms that the two councils have not concluded the necessary costing exercise to inform the contributions sought. Given that WSCC has confirmed in writing that no contribution has been calculated—how can the LPA justify the Strategic Highways Infrastructure Contribution in light of CIL Regulation 122?

The WSCC Highways consultation response however, dated 9th May 2019, states on page 8: *"In looking at the proposal, the Highways Authority (CHA) considers that the Wings site should contribute to the Local Plan allocation. As such, the CHA seeks to secure a financial contribution. The actual amount is yet to be determined and this information will follow separately when known"*. Are you aware of any evidence of WSCC's "consideration" that the Wings site should contribute to the Local Plan allocation?

Turning to other local precedents, I accept that the Hook Lane S106 referred to in my previous email was dated December 2014. I will therefore draw your attention to the S106 for Nyton Nurseries, Aldingbourne, agreed (very recently) in April 2018 and very close (in the same parish) under ref: AL/13/18/PO. I have attached a copy. In that new S106, the District Council accepted the removal of the Strategic Highways Infrastructure Contribution in its entirety. I would also draw your attention to the WSCC Highways Authority consultation response to that application (by Stephen Gee) which stated on 15th February 2018: *"In line with paragraph 128 of the Inspectors report on appeal ref: APP/C3810/A/14/2217385 no objection is raised [to the deletion of all contributions to the A29 project]."*

If you review that Inspector's decision (APP/C3810/A/14/2217385) which I have also attached to this email you will find that the Inspector concludes, at paragraph 128:

"...there is limited evidence to indicate that the appeal proposal either by itself, or in combination with previously permitted development, would have an adverse effect on highway capacity in the locality. Therefore notwithstanding the economic and other benefits emanating from the realignment of the A29, and having regard to the views of the Highway Authority at the time of the application, I conclude that there is no compelling evidence to indicate that the realignment scheme is necessary to make the development acceptable. Therefore this obligation would not comply with the tests within CIL Regulation 122 and I am unable to take it into account. ... I therefore conclude that with the exception of the obligation in relation to the realignment of the A29 the infrastructure contributions sought by the Council are reasonable and necessary, and would comply with the tests within Regulation 122."

It is worth noting that the Nyton Nurseries permission relates to 268 dwelling and had "no compelling evidence" of an adverse impact on highway capacity, nor to indicate that the A29 realignment is necessary to make the development acceptable. The Wings application proposes 55 dwellings and by comparison cannot reasonably be considered to have a greater impact on the road network.

We would therefore appreciate your advice on how the LPA can justify a financial contribution of £7,130-per-dwelling without any calculations, whether the inclusion of the Wings site in the strategic allocation has been established by WSCC and how this application is different to the LPA's own precedent on the Nyton Nursery site.

On the timing of the application and S106, I note Tim's request to "wait until any new figure is available" at an unknown point in the future; it is of course not appropriate for the LPA to delay our application whilst an external consultee considers its own evidence, especially in light of our impending Public Inquiry.

It is common practice to take a Draft S106 and Heads of Terms to Planning Committee and so we trust this will be possible and see no reason why the June 27th date should be at risk from this S106 matter.

The HIS will be complete shortly after your 5th June deadline and so will need to follow as a late-list item which I trust is not a problem especially as Liz is on holiday anyway until that date. She will have ample opportunity to review the findings of our HIS before the Committee date on 27th June. As you know we are not convinced that this was a reasonable request by the County Ecologist given that they did not ask for it last year but we have endeavoured to provide this at this late stage in any case.

I appreciate this is a lot of information to consider and do not want to take you away from writing the report with your limited amount of time, but you will understand that there appears to be an inconsistent approach to different

sites locally and the Highways Authority do not appear to have the evidence necessary to secure the contributions they are seeking, so your advice as always would be much appreciated.

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK



From: Daniel Vick <
Sent: 29 May 2019 13:16
To: 'Gareth Giles | Wh
Cc: 'Richard Dollamore
Subject: RE: S106 for Wings Nursery - AL/32/19/OUT

Gareth,

Thanks for the response.

I have received an e-mail from Tim at WSCC which will be uploaded to the website shortly. The e-mail states:-

As you know, both County and District are looking at the level of contributions to assist with provision of strategic infrastructure for Local Plan allocations and other nearby developments – Wings being one of the latter. As you also know, this work is not concluded, hence the delay getting you an up-to-date financial figure to add to your Committee report.

If you are able to wait until any new figure is available before determining the planning application, then that would be appreciated. However, if you need to conclude matters sooner than this, then please include the figure of £7,130 in any report you write.

The re-aligned A29 is considered to be part of necessary infrastructure for the district and not just part of the BEW development. We are looking to gain contributions from as far south as developments in Bersted (at a lower level of contribution). It is likely that the figure sought once the contributions have been worked out would be higher than it currently stands.

The Hook Lane s106 you attach is a little dated – I suspect the costs have been re-worked over time and things rarely get less expensive .

It should be possible to take the item to Committee with a draft s106/heads of terms.

I do not know of anything else outstanding at this point – apart from the HfS. Ideally we would have a comment on your report from our ecologist prior to the report being finalised. I am aware that Liz is away until 5th June so this may be unlikely.

I hope to spend some more time on the report this afternoon.

Daniel Vick



back

Sent: 28 May 2019 15:21

To: Daniel Vick

Cc: 'Richard Dollamore'

Subject: PS: S106 for Wings Nursery - AL/32/19/OUT

Hi Dan

As a PS – when we spoke on the phone last week and also in your email of 10th May we discussed that Tim Townsend and Steve Shaw were meeting to discuss their WSCC Highways Contribution request and that you were going to follow-up with them – given that their consultation response of 9th May on the Register doesn't include any specific figures.

Has there been any further discussion about this or an updated consultation response? We received the draft S106 on Friday and it includes £7,130-per-dwelling as a Strategic Highways Infrastructure Contribution but without any further information.

From our perspective, we know that the nearby Hook Lane S106 (attached) secured £5,000 per dwelling (see paragraph 2.54) so cannot understand where the new figure of £7,130 has come from for our site. Further to this, we remain far from convinced that this site should even contribute to the BEW road given that it is not within the BEW and is not to be directly served by that new road... any advice on that front would be appreciated too.

Many thanks
Gareth

Gareth Giles MRTPI
WHALEBACK

From: Gareth Giles | Whaleback

Sent: 28 May 2019 13:37

To: 'Daniel Vick'

Cc: 'Richard Dolla'

Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Hi Dan

Thanks for the update. Is your report progressing well?

The NP policy refers to Aldingbourne Sports and Community Centre being funded through S106 or CIL but the Parish Council haven't confirmed a costed project to us; their representation on the application doesn't refer to any projects either.

We have the travelling draft S106 through from the ADC Solicitor now – thank you if you helped bring that forward. I believe it is in a sufficient state to take to Planning Committee pending completion after a resolution to grant permission.

I will come back with an update on the HIS once I have one myself.

Is there anything else outstanding now ahead of 27th June committee?

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK

From: Daniel Vick [REDACTED]
Sent: 23 May 2019 15:47
To: 'Gareth Giles | Whaleback' [REDACTED]
Cc: 'Richard Dollamore' [REDACTED]
Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Gareth,

I have spent most of the day preparing the report – although there is much still to be done. I hope to do more tomorrow morning.

I have noted that the emerging ANDP states the site is allocated but a contribution to the Aldingbourne Sports Centre is required. Have the Parish advised that they have a scheme and what the requirement is?

Can you also update me regarding the GCN HSI that is under preparation.

Daniel Vick

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From: Gareth Giles | Whaleback [REDACTED]
Sent: 16 May 2019 11:16
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Thanks, Dan – and for your time on the phone earlier.

We'll pass this information along to our ecologists at Arbeco.

I'll wait to hear from you regarding the WSCC SI06 matters especially following Tim Townsend's meeting with Steve Shaw – I appreciate you pressing them on the timescales as of course the application can't be delayed simply because WSCC have not calculated their district-wide figures yet.

We appreciate your timescales to take the application to 27th June DC committee and if you need anything from us to inform your report before the papers deadline on 5th June do let me know.

Finally, we are of course pleased that the Parish Council representation and the site's inclusion within the Emerging Neighbourhood Plan Review has led to a position of support from the District Council and look forward to consideration by members on 27th June.

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK



From: Daniel Vick <[redacted]>
Sent: 16 May 2019 10:29
To: 'Gareth Giles | Whaleback' <[redacted]>
Cc: 'Richard Dollamore' <[redacted]>
Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Gareth,

As per our discussion it may be worth looking at this ecological appraisal for a nearby site which had a GCN HIS included with it:- https://www1.arun.gov.uk/PublicViewer/Authenticated/Main.aspx?user_key_1=AL/8/16/OUT

On the current application Liz has commented:-

A HSI assessment can be done at any time of the year, and it evaluates the habitat onsite and also the suitability of ponds within 500m of the site to determine if they are suitable for GCN. 10 factors are looked at including (water quality, fauna and terrestrial habitat) and a score is given which tells you how suitable the area is for GCN. If the score is over 0.59 then further survey work would be required. The timescale will be really dependant on the number of ponds which are assessed, and the availability of the ecologist, I would guess it takes around a month through to complete the report.

I have read through the updated ecology report from April 2019 and everything included I am happy with, however the GCN issue was not discussed so this is still outstanding.

Daniel Vick

A large black rectangular redaction box covering several lines of text.

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From: Gareth Giles | Whaleback <[redacted]>
Sent: 13 May 2019 13:07
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Hi Daniel,

Thanks for the update.

I have now seen the WSCC Highways response. We are pleased they again support the application but am slightly confused by the lack of a S106 figure, with the information being provided *as soon as it is available*. This doesn't really fit with the spirit of planning application deadlines. Are you able to shed any light on this?

With the other missing consultees, are you able to chase them? Again, there are consultation deadlines for a reason and it seems unfair to delay our application because a few consultees are late; those consultees all responded to the previous application (without objection) and so surely nothing could have changed since August 2018 regarding the water supply, rail network, trees, open space and environmental health?

Regarding Ecology, I now see that Liz Rogers has raised two issues (GCN and overwintering birds) that were not raised in her previous response (both versions attached for your reference). This seems deeply unfair to me given the evidence has not changed. If anything we have provided an updated Ecology Report which post-dates Liz's response this time around. Are you able to discuss this change with her and let me know how the LPA intends to deal with this?

What is the papers deadline for the DC Committee on 27th June? I assume it's 7th June? If so, we would expect that meeting to be very achievable if the preferred 5th June is not met as it would still allow the decision to be made within the 2nd July 2019 deadline.

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK

From: Daniel Vick [REDACTED]
Sent: 10 May 2019 17:26
To: 'Gareth Giles | Whaleback' [REDACTED]
Cc: 'Richard Dollamore' [REDACTED]
Subject: RE: Update re: Wings Nursery - AL/32/19/OUT

Gareth,

Thanks for the e-mail.

You will note from our website that we now have WSCC'S highways comments. However they have not yet provided details of their s106 contribution request. I will be speaking with them next week to discuss this.

I also await consultation responses from: Southern Water, Tree Officer, Parks and Landscape, Environmental Health and Network Rail.

I note that our ecology advisor has raised two issues:-

- i) Greater Crested Newts and the need for a HSI statement
- ii) Nesting birds and the need for an overwintering survey in relation to Pagham Harbour SPA.

I will be speaking to our consultant next week to discuss these issues.

It seems unlikely that the report will be ready for the Committee of 5th June given the items mentioned above. For it to make the agenda I would need to have my report with Neil Crowther ready for Thursday morning.

There is a "special" DC Committee meeting for more strategic items on 27th June.

I will call you next week to discuss.

Daniel Vick

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From: Gareth Giles | Whaleback
Sent: 07 May 2019 21:01
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: Update re: Wings Nursery - AL/32/19/OUT

Hi Daniel,

I hope you are well and enjoyed your time off in March.

I am hoping you will be able to update me after around a month since we last spoke, regarding the Wings Nursery. The consultation period closed on 4th May so we can assume that all/most comments are now received.

The Parish Council have written to you to confirm the site is included in its Draft Neighbourhood Plan; this simply serves to highlight the most important fact that the site is now a draft allocation in the emerging Neighbourhood Plan which we believe will now receive the support of the LPA.

One outstanding consultee is WSCC Highways. In their 'preliminary' response of 24th April (on the Register) they indicate a final response would be provided by 29th April 2019. No further response is on the Register - has this been received or followed-up?

I do not believe any other consultees are critical, especially given you will have the previous comments from all consultees to the previous application of less than a year ago. If however you think any are still needed, could you please advise which, and chase these, given the deadline has now expired? I am happy to chase them also if you think this would help.

Our Solicitors are reporting another lack of response from ADC Solicitors on the SI06 – in your email below you mentioned you were sending the draft SI06 to WSCC for their input; has this now been received and are you able to share?

We are also expecting draft pre-commencement conditions (if any) from you at this stage to review before the application is taken to committee. Are you able to share these?

The papers deadline for June Committee is next Friday 17th May. Are you able to update on your progress towards that deadline?

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK

[REDACTED]

From: Daniel Vick [REDACTED]
Sent: 17 April 2019 12:59
To: 'Gareth Giles | Wha [REDACTED]
Cc: 'Richard Dollamore' [REDACTED]
Subject: RE: Wings S106 - AL/32/19/OUT

We will be sending a draft to WSCC so they can complete there element – it may have changed since the first application.

I am now on leave until Tuesday.

[REDACTED]

From: Gareth Giles | Whaleback [REDACTED]
Sent: 17 April 2019 10:42
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: RE: Wings S106 - AL/32/19/OUT

Was there an update from that meeting yesterday?

Thanks
Gareth

From: Daniel Vick [REDACTED] >
Sent: 17 April 2019 10:13
To: 'Gareth Giles | Whaleback' [REDACTED]
Cc: 'Richard Dollamore' [REDACTED]
Subject: RE: Wings S106 - AL/32/19/OUT

Gareth,

I was discuss the appeal/s106 with the manager of the legal team yesterday.

Daniel Vick



From: Gareth Giles | Whaleback [REDACTED]
Sent: 17 April 2019 10:11
To: Daniel Vick
Cc: 'Richard Dollamore'
Subject: Wings S106 - AL/32/19/OUT

Hi Dan,

Our solicitors have been trying to reach Jeremy Cook at your end to progress the S106 drafting but have been unable to raise a response (and he is now on leave for two weeks). Are you able to give him a nudge to progress on his return?

Thanks
Gareth

Gareth Giles MRTPI
WHALEBACK
[REDACTED]

From: Gareth Giles | Whaleback [REDACTED]
Sent: 02 April 2019 17:15
To: 'Daniel Vick' [REDACTED]
Cc: 'Richard Dollamore' [REDACTED]
Subject: RE: Wings Application timetable agreement

Thanks Dan

Gareth Giles MRTPI
WHALEBACK
[REDACTED]

From: Daniel Vick [REDACTED]
Sent: 02 April 2019 16:52
To: 'Gareth Giles | Whaleback' [REDACTED] Neil Crowther [REDACTED]
Cc: Richard Dollamore [REDACTED]
Subject: RE: Wings Application timetable agreement

Gareth,

As you may now know the application was made valid today – the earliest date for a decision is 4th May.

I hope to be able to undertake a site visit next week to display the notices.

Daniel Vick

[REDACTED]

From:
Gareth
Giles |

Whaleback [REDACTED]

Sent: 26 March 2019 14:42

To: Neil Crowther; Daniel Vick

Cc: Richard Dollamore

Subject: RE: Wings Application timetable agreement

Hi Neil,

Thanks for responding in Daniel's absence and your honesty there.

I appreciate June may be challenging. I will say though that most consultees will be reviewing the same evidence as last year and so we anticipate most of them will be able to re-use their previous comments and we hope that your LPA could exert some pressure on consultees to ensure timescales are not unnecessarily protracted. If you could commit to ensuring that consultees are kept in line that would be appreciated.

We will check in once the application is validated and would appreciate ongoing liaison with you to make sure things are running to time. There is of course a committee report for approval from July 2018 which I imagine could be re-used, assuming we end up with a positive recommendation this time.

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK
[REDACTED]

From: Neil Crowther [REDACTED]

Sent: 26 March 2019 14:32

To: 'Gareth Giles | Whaleback' [REDACTED]

Subject: RE: Wings Application timetable agreement

Gareth,

I think you are being enormously optimistic with those timescales.

17 May is the absolute latest time a report needs to be completed by for and you will have had to have gone through validation, advertisement and consultation with all timescales expired before an officer can write a report. You would also have to have had all relevant consultee comments submitted within that timescale with no requests for additional information and the officer dealing with the application will have carried out all required work on other existing applications that he/she currently has that will need to go to that committee.

Until the application is submitted and validated, we cannot commit to a timescale and I am not saying that it definitely can't go to June committee but I do think that it is highly unlikely based on the above. I am aware of the appeal timetable and we will do what we can to make June committee but I cannot give you any assurance of this at this time.

Neil

[REDACTED]

From: Gareth Giles | Whaleback [REDACTED]
Sent: 26 March 2019 10:35
To: Daniel Vick; Neil Crowther
Cc: Richard Dollamore
Subject: Wings Application timetable agreement

Hi Dan / Neil,

I hope you are well. As discussed, we're preparing a new application to submit in the next day or so and are seeking agreement with you regarding timescales.

We are aiming for a decision at 5th June planning committee, allowing the committee cycle and decision to be issued within 13 weeks of submission. We understand the papers deadline is 17th May which seems achievable. Given this is largely a re-run of the previous application we assume there won't be any unusual delays and hope you can commit to this committee date.

Our Inquiry bespoke programme requires most of the paperwork to be submitted by the summer and so it's in everyone's interest to determine this new application before that additional work is due, if the appeal is to be withdrawn by mutual agreement. If the application process slips beyond those programme dates without good reason, we would have to undertake the rest of the appeal work which we would seek to recoup through the costs process if necessary.

I appreciate it is hard to make any guarantees until you have received the application but we wanted to give you some early warning of its submission and start the conversation now to enable some early agreement on timescales.

We would appreciate your thoughts on the above and will let you know once the application is submitted through the Portal.

Best wishes
Gareth

Gareth Giles MRTPI
WHALEBACK
[REDACTED]
www.whaleback.co.uk

From: Gareth Giles | Whaleback [REDACTED]
Sent: 08 March 2019 12:21
To: 'Daniel Vick' <[REDACTED]>
Subject: RE: June Committee?

Thanks, Dan.

We still think June is achievable (and can agree to the conditions on the Committee report from July 2018 that recommended approval) but let's see how we get on.

Thanks
Gareth

Gareth Giles MRTPI
WHALEBACK

From: Daniel Vick <[REDACTED]>
Sent: 08 March 2019 12:05
To: 'Gareth Giles | Whaleback' <[REDACTED]>
Subject: RE: June Committee?

Gareth,

The closing date for Committee of 5TH June is 17th May. Therefore time between closing of date for comments and preparation of report would be minimal. Pre-commencement conditions would also need to be agreed.

July Committee is on 10th with a closing date of 21st June.

Dan

From: Gareth Giles | Whaleback <[REDACTED]>
Sent: 08 March 2019 11:47
To: Daniel Vick
Subject: June Committee?

Hi Dan

Last query this week I believe – any news on the June committee as a potential to reserve if we get a new app validated by start of April?

Thanks
Gareth

Gareth Giles MRTPI
WHALEBACK

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