

From: Amanda Scholes on behalf of Planning.Responses
Sent: 18 June 2020 09:07
To: Planning Scanning
Subject: FW: s016 - Land east of Shripney Road and south of Haddon House - BE/109/19/OUT
Attachments: Shripney - letter to ADC 17-06-20.pdf
Importance: High

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Save the environment - think before you print.

From: Neil Crowther <Neil.Crowther@arun.gov.uk>
Sent: 17 June 2020 14:36
To: Planning.Responses <Planning.Responses@arun.gov.uk>
Subject: FW: s016 - Land east of Shripney Road and south of Haddon House - BE/109/19/OUT
Importance: High

From: James Smith [REDACTED]
Sent: 17 June 2020 12:55
To: Caroline Perry <Caroline.Perry@arun.gov.uk>
Cc: Joe Godfrey [REDACTED] Nigel Jarvis [REDACTED]
[REDACTED] Simon Davis <Simon.Davis@arun.gov.uk>; Neil Crowther <Neil.Crowther@arun.gov.uk>; Karl Roberts <Karl.Roberts@arun.gov.uk>
Subject: RE: s016 - Land east of Shripney Road and south of Haddon House - BE/109/19/OUT
Importance: High

Dear Caroline

Further to the email below, our subsequent conversations and the publication of the agenda and report for the committee on the 24th, please see attached letter.

I would be grateful if you could acknowledge receipt and also that the attached letter and the points made therein will be considered by officers and also drawn to the attention of members ahead of the committee on the 24th?

We appreciate that members may still decide to refuse the application on the basis of the reasons for refusal that have been drafted (despite officers views on some of those reasons expressed at committee and again within the

latest committee report) but we do feel it is important that these points/clarifications are put before them prior to the final decision being made.

If you have any queries please do give me a call. In the event that members do have a change of heart on the 24th then I confirm I am now holding all of the executed counterparts of the agreed s106 Undertaking and would be able to complete them immediately if required.

With kind regards

James

James Smith
Principal and Director
James Smith (Planning Law Services) Limited

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From: Caroline Perry <Caroline.Perry@arun.gov.uk>

Sent: 04 June 2020 08:27

To: James Smith

Subject: s016 - Land east of Shripney Road and south of Haddon House - BE/109/19/OUT

Dear James,

I am writing to advise that this application was refused by the Planning Committee yesterday. The matter has now been deferred to a future Committee date for a report to be prepared to reflect the reasons cited by the Members.

Kind regards,

Caroline

Caroline Perry
Principal Lawyer and
Deputy Monitoring Officer
Legal Services

T: 01903 737691

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Ms. Caroline Perry
Principal Lawyer and Deputy Monitoring Officer
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West Sussex, BN17 5LF

30a Upper High Street
Thame
Oxfordshire, OX9 3EX

Ref: JS/HPL/SHRIP

Date: 17 June 2020

Sent by email.

Dear Caroline

**Land East of Shripney Road and South of Haddan House, Shripney Road, Bersted – Application
BE/109/19/OUT**

I write further to our recent telephone conversation regarding this application and specifically the decision of the Development Control Committee at their meeting of 03 June 2020 to defer my client's (Hanbury Properties Limited) planning application pending the drafting of proposed reasons for refusal by officers for the members consideration at the next committee on 24th June. It is noted that the agenda for that meeting of 24th June has now been published, along with the proposed reasons for refusal of the application which form Item 6 on the agenda.

You recall also that during our telephone conversations, I mentioned that my client had some concerns with the debate that took place at the 3rd June committee meeting and felt that perhaps members might have been aided by further information or clarification on certain matters that were (and are) material to the decision they were being asked to take. In fairness to the members,

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this was a point that some of them made themselves when speaking on the application at the committee, as well as expressing frustration that new time limits meant they were not able to explore certain matters further. With this in mind, my client has asked me to write to you ahead of the committee on the 24th to make/clarify certain points as set out below. I would be grateful if they could be given due consideration by both officers and members before any final determination of this application is made at the committee on the 24th June.

1. As an initial point I would question that, as stated in the committee report for the 24th June, the committee “resolved to refuse the application” at the June 3rd committee. Whilst, clearly, members were minded to refuse the application, as evidenced by their request to officers to draft reasons for refusal, the actual proposal voted upon was to defer the application to the next committee. This is reflected also in the committee minutes. As such, I assume (and indeed request that) members will be asked to vote again on the 24th June as to whether they still wish to refuse the application having had an opportunity to consider the potential reasons for refusal (and the comments by officers within the new report) or alternatively, whether they wish to change their mind and approve the original officer recommendation. If so, please can you ensure that the original committee report and recommendation is also available to members for the purposes of the discussion that will take place on the 24th?
2. Neil Crowther rightly referred during the debate at the committee to the recent appeal decision relating to the nearby site known as The Cottage (appeal reference W/4000456 plus associated costs award decision). We agree with Neil that this decision is a material consideration that the committee should give significant weight to. It was, however, unclear whether members actually had a full copy of this appeal decision (or the award of costs letter) before them when considering the application. If not, please could this be addressed at the next committee?


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3. During consideration of the application, members were shown a plan purporting to show flood risk in the area in 2111 (which it appears forms the basis of proposed reason for refusal two) but it was not at any point during the discussions or deliberations highlighted (nor could I see it labelled anywhere as I think the margins of the plan were not visible on the slides) that the plan/map they were being shown shows undefended flood risk in the area in 2111 with maximum assumed climate change impact. This method (which assumes no flood defences to consider a worst case scenario whereby sea defences may be temporary in nature or may not be adequately maintained which is why a large chunk of the District is shown as at risk) may be used for the purposes of district wide strategic flood risk assessments but when considering site specific flood risk, regard clearly has to be had to the actual sea/flood defence circumstances in the area of the site as was set out in the detailed Flood Risk Assessment (and sequential test) submitted by my clients and accepted by the Council. This concluded that:

"2.7.5 The EA also confirm that flood defences are present in the form of high ground. Due to the permanent nature of the defences i.e. the level of defence is not able to be adjusted, such as with a sluice gate, the modelled defended scenario is considered to be appropriate when assessing flood risk to the site."

2.7.6 For the tidal defended scenario, there is no flooding at all within or adjacent to the site even when accounting to all climate change scenarios after consideration of the presence of existing flood defences."

Having regard to the reasons for refusal, the perceived flood risk in 2111 was clearly something that was of concern to several of the members, perhaps understandably given the plan they were shown. However, that plan is not a realistic scenario when assessing this specific site in the context of an application because the site is in an area which has the benefit of permanent, natural, sea defences. As such, we request that this point is

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expressly drawn to members' attention before their final decision is taken. Similarly, please can it be made clear to members that as part of the flood risk assessment, a sequential test (which also considered why the application would pass the exception test even if the site were in Flood Zone 3a) was undertaken in accordance with paragraphs 157-160 of the NPPF, the findings of which were again accepted by the Council as was made clear in the officer report. In addition, in offering no objection, the Council and County Council drainage/flood officers (and the Environment Agency) confirmed that they agree that this site is not in a high risk flood area and that adequate drainage arrangements can be secured through the detailed design and pursuant to the conditions. Other than a couple of very small areas on the site boundary upon which there will not be development the site is, in fact, classified as Flood Zone 1, the lowest risk zone there is.

4. The reasons for refusal make reference to the site not having access to high quality public transport and at least one of the members referred on a number of occasions to there being negligible bus services. However, the number 66 bus service stops at bus stops which are just 40m from the site entrance. This service (66A and 66C) provides access by bus to Bognor Regis (including the station), Westergate, Barnham, Walberton and Yapton with a regular service which does allow commuting (e.g. five services from 8am into Bognor Regis High Street, returning at 17:40pm on Monday-Friday and one fewer service each way on Saturday). Timetabling confirms this service does stop adjacent to the Shripney Road Tesco in South Bersted. The existing bus service does therefore provide a connection for future residents of the site to the larger local retail parks. It should also be noted that the large-scale employment areas of Oldlands Farm, the proposed new business park at Saltbox and other major employers are all within walking distance.
5. Finally, there is an error in the wording of proposed reason for refusal three, or at least there appears to be a misunderstanding in terms of what has been submitted by my

[REDACTED]

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clients in support of the application. The reason for refusal states that the applicant has not submitted the reports required under the criteria set out in policy SO DM1. However, this is not correct. As was set out by the previous committee report my clients have provided an agricultural land appraisal and soil resource plan (with any identified mitigation measures secured by way of condition) in accordance with policy SO DM1 and which the committee report confirmed met the information requirements of that policy. Having regard to the PINS procedural guidance, we think it is important that this reason for refusal (if retained) is thus corrected and officers should ensure members are re-appraised of the findings of the submitted reports for the avoidance of doubt.

I hope that the above points are clear but if you do have any queries please do contact me. Whilst my clients obviously disagree with the proposed reasons for refusal (and believe that we can demonstrate they are unjustified on appeal) we recognise that members may still vote to refuse the application when they reconvene on the 24th June. However, if they do choose to do so, it is important that the points of clarification set out in this letter are drawn to their attention first as these are material points that might make a difference to their conclusions on some of the key issues. Ultimately, my clients have no wish to end up in an appeal (with the time and expense that can involve for both parties) if there is any possibility that it can be avoided. As such, I would be grateful if you could confirm that the full contents of this letter will be drawn to the attention of members before any decision is taken in respect of the application at the committee on the 24th June.

As a final point, the “point of order” exchange that took place between Cllr Roberts and Cllr Yeates (over the nature of any disclosable interest held by Cllr Yeates) at the end of the discussion in the committee was noted and perhaps the matter returning to the committee also offers a suitable opportunity for any misunderstanding there may have been in that regard to be rectified before any final discussion and vote on the matter?

[Redacted Signature]

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With kind regards

Yours sincerely



James Smith

Principal and Director

For and on behalf of James Smith (Planning Law Services) Limited

Cc: Karl Roberts
Neil Crowther
Simon Davis



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