

[REDACTED]

From: Amanda Scholes on behalf of Planning.Responses
Sent: 18 June 2019 08:37
To: Planning Scanning
Subject: FW: LU/133/19/PL - Site of Inglecroft Barn Close Littlehampton West Sussex BN17 6JU

From: paul collins [REDACTED]
Sent: 17 June 2019 19:21
To: Anita Gardner
Cc: Planning.Responses; Daniel Vick; Neil Crowther
Subject: RE: LU/133/19/PL - Site of Inglecroft Barn Close Littlehampton West Sussex BN17 6JU

Dear Anita

I have not ignored the comments from the Chichester District Council's Ecology Officer and have addressed these in my e mail to which you are replying. I also note that you seem to be unaware of the relevant PPG at paragraph 028 Reference ID: 15-028-20140306 which states: *"Can a local planning authority grant planning permission against the advice of a statutory or non-statutory consultee? The decision to grant or refuse a planning application ultimately rests with the local planning authority taking in to account all relevant planning considerations, and not just the advice from one consultee. Local Authorities should be aware of the need to be able to justify a decision taken, including where it is contrary to a statutory consultee's view".*

Ecology and drainage conditions are matters for the LPA to determine and not the CDC Ecology officer or ADC Drainage Engineers .

With regard to ecology I can only point out that there is no policy or legal requirement for a Phase 1 habitat study to be provided prior to the determination of this application as requested by the Ecology officer (if you consider otherwise please advise and provide the specific reference). The submitted Bio diversity checklist/form questions have been completed/answered correctly with regard to Bats according to NE Standing advice (please read that provided on their web site at the reference provided in my e mail) and this is the first time (some 6 days after the expiry of the statutory determination deadline) that you have challenged that information and those answers and that the CDC Ecology Officer does not do so and does not appear to have read same either.

There is nothing about this site (including the buildings) that would trigger the need for a bat survey according to the bullet point list provided by NE on their web site (see link previously provided) and the CDC Ecology officer does not say there is or that the two buildings on this site exhibit features which that would make it likely that they are being used by bats (see web link) and that both buildings are in fact described on the same web link as being less likely to be used by bats.

Given that there is no evidence that clearly justifies the need for any surveys or any policy or legal requirement for surveys to be undertaken it is inappropriate for same to be requested. (see PPG at Paragraph 016 Reference ID: 8-016-20140612 which states : *Local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity*).

In respect of foul and surface water drainage I reiterate that I have nothing further that I can or intend to add regarding the applicant's proposals for same set out in the submitted application, supporting statement and my e mail below which are clearly acceptable and will be implemented in accordance with the Building regulations. (In this regard I highlight PPG Paragraph: 005 Reference ID: 21a-005-20140306 which states: *Any proposed condition*

that fails to meet any of the 6 tests should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. Every condition must always be justified by the local planning authority on its own planning merits on a case by case basis. Specific circumstances where conditions should not be used include: Conditions requiring compliance with other regulatory requirements (eg Building Regulations, Environmental Protection Act)

Finally I note your approach to pre commencement conditions. if you do intend to act as you suggest /state in this regard can I suggest that you follow the law and the relevant PPG (Reference ID: 2.1a-035-20180615) before doing so.

The applicant sees no need to provide further information or propose any amendments to the application that will require further consultation or delay to its determination (which should have taken place by 11 June 2019 in any case) so if you are intending to request an extension of time please can you provide a formal written request for same in accordance with PPG at Paragraph: 003 Reference ID: 2.1b-003-20140306. (This states that *If a valid application is already being considered and it becomes clear that more time than the statutory period is genuinely required, then the local planning authority should ask the applicant to consider an agreed extension of time. Any such agreement must be in writing and set out the timescale within which a decision is expected.*) In this regard and given your approach to date, I also remind you that the applicant has appeal rights with regard to any failure to determine an application within the relevant statutory time period and the relevant PPG at Paragraph: 048 Reference ID: 16-048-20140306 and Paragraph: 049 Reference ID: 16-049-20140306 in this regard.

In the meantime, given the circumstances and notwithstanding the foregoing, please can you now provide the confirmation I requested (highlighted in bold) in my previous e mail at the earliest opportunity as your response does not do so.

Thanks

Paul Collins BA (Hons) DipTP MRTPI



RTPI

Chartered Town Planner

From: Anita Gardner [REDACTED]
Sent: Monday, June 17, 2019 5:02 PM
To: 'paul collins' [REDACTED]
Subject: RE: LU/133/19/PL - Site of Inglecroft Barn Close Littlehampton West Sussex BN17 6JU

Dear Paul,

The comments of the Council's Ecology Officer cannot be ignored. There are existing buildings on the site which are empty and have the potential to support roosting bats. The submitted Biodiversity Checklist incorrectly states that there are no structures with potential, but there are 2 vacant unused buildings on the site which should be surveyed to determine whether they are being used by bats. If you do not provide the Phase 1 Habitat Survey and bat survey requested by the Ecologist then this is likely to form a reason for refusal of the application.

I also note that you have challenged the conditions suggested by our drainage engineer. Your consent would be sought prior to these being imposed as pre-commencement conditions and should your agreement not be forthcoming it is likely that this would also form a refusal reason.

Accordingly, I would appreciate receipt of the Reports requested by the Ecology Officer and will need to agree an extension of time on the application to allow for them to be undertaken, submitted and consultation and response to be received. Please can you advise of likely timescales accordingly?

Regards
Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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Save the environment - think before you print.

From: paul collins [REDACTED]
Sent: 08 June 2019 15:27
To: Anita Gardner
Subject: FW: LU/133/19/PL - Site of Inglecroft Barn Close Littlehampton West Sussex BN17 6JU

Paul Collins BA (Hons) DipTP MRTPI



RTPI

Chartered Town Planner

From: paul collins [REDACTED]
Sent: Saturday, June 8, 2019 3:25 PM
To: [REDACTED]
Cc: 'Planning.Responses' [REDACTED] 'Daniel Vick' [REDACTED]
Subject: LU/133/19/PL - Site of Inglecroft Barn Close Littlehampton West Sussex BN17 6JU

Dear Anita

I refer to the above application for which you are the nominated ADC Case Officer.

A you are aware the statutory determination period for the application expires on 11 June 2019 for the reasons given in my e mails dated 7th – 9th May 2019. It is unclear whether or not the application falls to be determined under delegated powers or by Committee but in any event I note that such determination cannot now take place before the expiry of the statutory determination period. **There is a Development Control Committee on 10 July 2019 and I would appreciate your confirmation that the application will be determined either before that date under delegated powers or at that Committee together with a draft of your list of suggested conditions which you consider meet the relevant tests in NPPG Paragraphs: 003/004 Reference ID: 21a-003-20140306) (see Paragraphs 24/25 of the supporting statement) by return an certainly before your report is finalised.**

In the meantime and in order to assist you in making a recommendation (under delegated powers or to your Committee), I provide a response on behalf of the applicant to those matters raised by consultees and third parties (as recorded on the file at the date of writing) below

WSSC Highways Response dated 17 May 2019

The existing vehicular/pedestrian and cycle access/egress to/from the site to an adopted highway (Barn Close) is described at paragraph 6 in the submitted supporting statement and on submitted plan O159 SPO3 and the proposed access arrangements will not alter the existing access. As described at paragraph 9 of the supporting statement and on submitted plans O159 SPO 1 A and SO2A it will not involve any works to the adopted highway as

access is to be provided from the existing access and highway boundary by way of an internal private access road which is not to be offered for adoption.

We note that the WSCC Highway Authority raises no objection to the proposed access arrangements and whilst the suggestions for the design of the internal private road are noted these are of course a matter for the applicant and/or future occupiers to determine and not WSCC as the Highway Authority as their statutory responsibilities extend to the adopted Highway only.

We also note the suggested conditions and “informatives” but respectfully point out that these are matters for the LPA to determine having regard to the relevant tests for such conditions (see the PPG highlighted) and in this regard we consider that all those suggested by WSCC Highways fail to meet the relevant tests and should not be imposed.

Foul, rainwater/surface water drainage

The comments from the ADC Drainage Engineer dated 30 May 2019 and WSCC as the LLFA dated 29 May 2019 are noted. Neither objects to the proposed drainage arrangements for the site but both suggest pre commencement conditions requiring the submission of further information prior to approved development commencing.

Foul drainage for the site is to be provided by way a connection to the public foul sewer in Barn Close maintained by Southern Water Services Ltd (paragraph 20 of the Supporting Statement) and there is a statutory right to connect controlled under other relevant legislation (Water Industry Act 1991 (as amended)) so this is not a matter for the LPA, ADC Drainage Engineers or WSCC as the LLFA and no conditions can or should be imposed on any PP granted (see the PPG highlighted).

As explained at paragraph 21 of the supporting statement Surface water runoff drainage from the proposed houses, driveways and internal access road generated by rainfall will be addressed by way of soakaways designed and provided in accordance with Document H of the Building Regulations as guided by BRE 365 soakaway designs and privately maintained by the future occupiers of the houses thereafter. I attach a copy of Document H of the Building Regulations for reference purposes (see sections 2 and 3 in particular) when considering our response to the comments from WSCC as the LLFA and the ADC Engineers below.

WSCC as the LLFA have statutory responsibilities for developing, maintaining and applying a strategy for local flood risk management in their areas and for maintaining a register of flood risk assets. They also have lead responsibility for managing the risk of flooding from surface water, groundwater and ordinary watercourses but these responsibilities do not extend to the detailed management of surface water drainage systems for individual sites and the LPA is under no obligation to consult that body for the purposes of this application. However it is noted that having been consulted they raise no objection and that all other comments are informal advice only. We note their informal advice but remain satisfied that the proposed development can be satisfactorily and appropriately drained by way of soakaways in accordance with DOC H of the Building Regulations without giving rise to any undue risk of flooding on site or elsewhere.

Similarly the comments of the ADC Drainage Engineer are also noted but since the drainage of this site is a matter that can and will be satisfactorily controlled under the Building Regulations (there is more than enough space to provide soakaways within the front and rear amenity spaces for the dwellings proposed) it is respectfully pointed out that the suggested conditions fail the relevant tests for planning conditions and should not be imposed by the LPA (See relevant PPG highlighted above and at Paragraph: 005 Reference ID: 21a-005-20140306 bullet point 4) and are also pre commencement conditions with which the applicant does not agree (see PPG at Paragraph: 007 Reference ID: 21a-007-20180615)

Ecology

The comments from the Councils advisor dated 28 May 2019 are noted. The Advisor states that “no information has been submitted on the ecological impact of the proposals” but this is incorrect and I draw your attention to paragraphs 17 – 19 of the supporting statement, the submitted ADC Biodiversity checklist and the answers given to Q12 on the submitted application forms. Having regard to the fact that this is a cleared site laid to grass with no trees and the unsuitability of the existing buildings on the site for bats (due to their type/condition), the information provided, the PPG at Paragraph: 016 Reference ID: 8-016-20140612, NPPF Paragraphs 174 – 177, standing advice

from Natural England (<https://www.gov.uk/guidance/bats-surveys-and-mitigation-for-development-projects#decide-if-you-need-to-survey>), ADLP Policy ENV DM5 and the statutory requirements with which any developer must comply, there is no basis whatsoever for requiring a Phase 1 Habitat study prior to determination in this case and no evidence whatsoever that there is a reasonable likelihood that protected species (including bats) are or would use the site (if undeveloped) and the applicant therefore requests that the application is determined by the LPA without the provision of the Phase 1 Habitat Study requested and/or any controlling conditions in this regard.

Third party representations

Littlehampton Town Council dated 4/6/19

It is asserted that *"the proposals constitute an overdevelopment of the site"* but no explanation is provided as to why this is considered to be the case. The applicant considers that the development of this site at a gross site density of just 20.8 dwellings per hectare is an appropriate low density (by modern requirements) response to the higher density of the housing which surrounds the site and meets all relevant adopted Local Plan policies in terms of the size of dwellings, amenity space provision, dwelling separation, the provision of amenity space and protection of existing amenity.

LTC also highlight their concern regarding *"the impact on the highway both in terms of increased usage and the visibility onto Toddington Lane."*

The site although now unused benefits from a lawful use as a commercial horticultural nursery and attached dwelling and the type and frequency of vehicular movements associated with such a lawful use (if brought back into use) would be more deleterious in terms of amenity and frequency of the use of the junction than that which will arise as a result of the 9 dwellings (net) proposed. The Toddington Lane junction forms part of the adopted highway and if visibility at the junction is giving rise to safety concerns this is a matter that should be taken up separately with the LHA as it is not a matter which can or should be addressed by way of this proposal.

Finally there is no evidence whatsoever to demonstrate that the erection of 9 dwellings (net) on this site would give rise to or generate a need for additional social infrastructure in the town of Littlehampton.

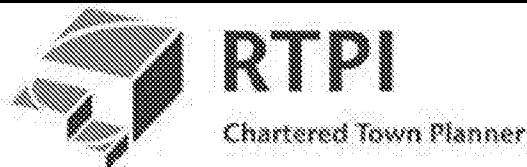
E mail dated 7 June from Mr Chester

The concerns raised are noted but WSCC LHA have not objected to this application and the matters raised are clearly concerns for WSCC as the LHA to address rather than matters for the applicant to address by way of this small scale individual proposal.

I look forward to receiving the confirmation and information requested in my first paragraph.

Thank you

Paul Collins BA (Hons) DipTP MRTPI



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