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Save the environment - think before you print.

From: Nicola Swann [REDACTED]
Sent: 30 April 2020 07:09
To: Planning.Responses <Planning.Responses@arun.gov.uk>
[REDACTED]

Subject: Pagham responses

Dear Planning team

At a meeting of its Planning Committee held on 28th April 2020, Pagham Parish Council considered the following applications. It wishes to comment as follows:

P/24/20/RES Approval of Reserved Matters pursuant to condition 1 (Reserved Matters details), condition 6 (Design Code Masterplan) and condition 7 (landscaping and layout details) following the approval of Outline planning permission P/134/16/OUT for the erection of 280 dwellings, (including affordable homes), replacement scout hut & Ambulance Community Response Post Facility; provision of a primary vehicular access from Sefter Road; demolition of No. 80 Rose Green Road & creation of a pedestrian & emergency only access; provision of Public Open Spaces including associated children's play areas, landscaping, drainage & earthworks. Land at Sefter Road & 80 Rose Green Road. **RESOLVED:** to OBJECT to the application on the terms set out in the report from the Council's Planning Consultant (copy of comments to be submitted to Arun District Council attached). It was further agreed that the Council request ADC Councillors Mrs Hamilton and Mr Huntley to pursue the procedural matters raised with the Cabinet member for Planning/Senior planning officers.

A copy of the comments referred to is attached.

P/35/20/DOC, P/37/20/DOC, P/38/20/DOC, P/23/20/DOC:

The Council considered a report from its Planning consultant in respect of agenda items 8.2-8.5, being discharge of conditions applications associated with the development of 90 homes at Summer Lane. Again the report outlined serious concerns around procedural accuracy in the way the planning permissions and subsequent applications were being handled. The Council requested ADC Councillors Mrs Hamilton and Mr Huntley raise the concerns with the Cabinet member for Planning/Senior planning officers.

Notwithstanding the procedural irregularities, the Committee wished to comment as follows:

P/35/20/DOC Approval of details reserved by condition imposed under ref P/58/15/OUT relating to Condition Nos 7- foul water drainage, 10 - discharge flows to watercourses and 11 - maintenance and management of SuDs. Land at Summer Lane Pagham PO21 4NG. **RESOLVED:** no additional comments regarding these application. Concerns about the suitability of the drainage solution and the issues ADC should consider when signing off this application would be raised by Mrs Hamilton and Mr Huntley directly.

P/37/20/DOC - Approval of details reserved by condition imposed under ref P/70/19/RES relating to Condition Nos 3 - drainage strategy and 5 - pumping station design. Land North of Summer Lane Pagham PO21 4NG. **RESOLVED:** no additional comments regarding this application. Concerns about the suitability of the drainage solution and the issues ADC should consider when signing off this application would be raised by Mrs Hamilton and Mr Huntley directly.

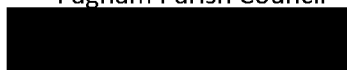
P/23/20/DOC - Approval of details reserved by condition imposed under ref P/58/15/OUT relating to Condition Nos 8 - ecological, 16 - Construction Management Plan, 17 - archaeological, 21 - Public Open Space, 22 - broadband strategy and 23 renewable and low carbon energy. **RESOLVED:** To request an amendment to the Construction Management Plan to make clear that contractors are not permitted to park in the Village Hall car park which was very near the development site and was likely to be empty when contractors arrived on site in the morning. The Car Park is for hall users only and is heavily used during the day.

P/38/20/DOC Approval of details reserved by condition imposed under ref P/70/19/RES relating to Condition Nos 4 - paved & gated access, 6 - charging of electric vehicles and 9 - new signage to encourage responsible dog ownership. Land To North of Summer Lane Pagham PO21 4NG. **RESOLVED:** no additional comments to make.

Best wishes



Nicola Swann
Clerk & RFO
Pagham Parish Council



Appended to the minutes of a meeting of the Planning Committee held on 28th April 2020 per minute P19/201.1

P/24/20/RES – Pagham Parish Council wishes to OBJECT to this application for the following reasons:

The application for reserved matter approval is not made in a lawful manner and is invalid for the following reasons:

- An application for the approval of reserved matters is not an application for planning permission and it is entirely reliant on the original OPP to which it relates
- It must be made in a prescribed manner and must accord with the description of the development granted OPP and the conditions and S106 Agreement relating to that OPP and may not make changes to that permission.

The application made fails to do so in all respects as it seeks to change the description of the development approved under P/134/16 OUT and is not made in the prescribed manner.

An application for the discharge of conditions is not an application for planning permission or an application for reserved matters and it must be made in a prescribed manner and cannot be made as part of a reserved matters application and must be made as a separate application. The application made to discharge conditions 6 and 7 fails to do so in all respects.

The application should be returned to the applicant by ADC Officers as an invalid application without any further consideration or determination.

Notwithstanding the foregoing, the Council wishes to OBJECT also on the following grounds:

The submitted details describe a development scheme that is not in accordance with the following relevant development plan policies for the reasons stated in each case:

Policy GI SP1 Green Infrastructure and development

The details of the proposed layout and landscaping of the site submitted fail to demonstrate how existing Green Infrastructure assets in Pagham will be protected and enhanced and fail to make connections between them to ensure a joined up Green Infrastructure Network.

Policy LAN DM1 Protection of landscape character

The details of the proposed scale, layout and landscaping of the site submitted fail to demonstrate how special regard has been had to the conservation of the setting of the South Downs National Park including views into and out of the Park or that the development proposed would not have harmful effects on such considerations. The details also fail to have any regard to the need to respect the particular characteristics and natural features of the relevant SC9 Chichester to Yapton Coastal Plan landscape character area nor explain how the development seeks to reinforce or repair the character of that area (see attached Local Plan excerpts and the West Sussex County Council SC9 Assessment) or how the development respects the historic character and development pattern of the Pagham and Aldwick settlements

Policy H SP2 Strategic Site Allocations

The details of the proposed scale, layout and landscaping of the site submitted fail to demonstrate how the scheme has been comprehensively planned with regard to a masterplan previously considered or endorsed by ADC and fail to demonstrate how the development:

- *protects, conserves or enhances the natural environment, landscapes and Biodiversity (criterion c)*
- *extends, enhances and reinforces strategic green infrastructure and publicly accessible open space (criterion e)*
- *clusters retail, commercial and community uses (criterion f)*

- provides community buildings for a range of uses such as healthcare, police, faith and community groups (criterion h)
- provides for the required infrastructure, that relates to that particular allocation, in accordance with Policy INF SP1 and the Infrastructure Delivery Plan (no primary school or land is proposed contrary to the OPP granted) (criterion n)
- considers the inclusion of an area of the sites for Self-Build and Custom Build (criterion p) and
- considers the delivery of an area as a site for Gypsy and Traveller accommodation (criterion q),

Policy H SP2a Greater Bognor Regis Urban Area (Pagham (SD1 Pagham South and SD2 Pagham North))

The details of the proposed scale, layout and landscaping of the site submitted fail to demonstrate how the scheme will:

- collectively (with other schemes) provide at least 1,200 dwellings over the plan period
- meet the imperative that it is aligned with the neighbouring Osbourne Refrigeration land and site

The details also fail to demonstrate that this development proposal has been designed so as to meet each of the following key design and infrastructure requirements specified in the policy:

- no detrimental impact to Pagham Harbour SPA, through compliance with ENV DM2 (Pagham Harbour) and its supporting text (a)
- a new one-form (expandable to two-form) entry primary school and nursery places (c)
- a care home facility,
- a Community Hub which includes;
 - i. shops and complementary uses,
 - ii. a community building (Tier 7 library, D1/sui generis floorspace),
- public open space (as opposed to private landscaped amenity areas) ,
- contribute to the provision of an enhanced local cycle network by making on site provision and appropriate off-site financial contribution; and
- the provision of linkages and accessible pedestrian and cycle routes to Bognor Regis town centre,

Policy H DM1 Housing mix and Policy AH SP2 Affordable housing

The details of the scale and appearance of the development proposed are not in accordance with this policy in that they fail to demonstrate that:

- The mix of dwelling types and sizes, to include affordable housing Units proposed (235 houses 45 flats (196 private dwellings, 84 affordable) adhere to the latest Homes and Communities Agency (now known as Homes England) design guidance or the most up to date SHMA recommendations.
- The tenure mix is capable of being negotiated on a case by case basis in the light of any viability considerations
- The development of self-build homes on appropriately sized, serviced sites can or will take place
- A proportion of the housing provided will or could be of a type and design that will meet the needs of older people, as identified in the most recent SHMA and that
- The affordable housing will be provided in accordance with Policy AH SP2 (the S106 Obligations regarding AH are addressed below)

Policy D SP1 Design and D DM1 Aspects of form and design quality

These policies are both relevant to the consideration of the reserved matters of the scale, layout and landscaping of any site and whether or not an individual scheme does or does not comply with the policies is largely a matter of opinion but none of the information submitted as part of the reserved matters application demonstrates or attempts to demonstrate that they accord with same.

Policy D DM2 Internal space standards

None of the information relating to scale and appearance submitted demonstrates or attempts to demonstrate that the LPA requirements in this policy are met

Policy ECC SP1 Adapting to climate change

The details of the proposed scale, layout, appearance and landscaping of the site submitted fail to demonstrate how the scheme will be designed so as to meet the requirements of this policy in terms of

- *Water efficiency;*
- *Shade, cooling, ventilation, solar gain;*
- *Connectivity to the green infrastructure network;*
- *Layout and massing; and*
- *Resilience of buildings and building materials to extreme weather events;*

(NB This policy also refers to *Capacity of drainage systems and incorporation of Sustainable urban Drainage Systems (SuDS)* but this is addressed by Conditions 10 - 14 on the decision and these do not form part of the application.)

Policy HWB SP1 Health & Wellbeing

None of the information submitted in respect of any of the reserved matters demonstrates accordance with this policy in that they do not describe a development that will:

- *Provide or contribute to the necessary infrastructure to encourage physical exercise and health, including accessible open space, sports and recreation facilities (including outdoor fitness equipment) and safe, well promoted, walking and cycling routes)*
- *Create a mixed use development and multi-use community buildings that reduce the need to travel by providing housing, services and employment in close proximity to each other; and*
- *Ensure that arts and cultural facilities are accessible to all residents and visitors to the District.*

And the site is not, in any case, located along a public transport corridor that is easily accessible to members of the wider community or more importantly the local community.

Policy OSR DM1 Open Space, sport & recreation

The scale, layout and landscaping proposed is not in accordance with this policy in that it provides for open space in an arbitrary and opportunistic way in order to accommodate 280 houses rather than having been demonstrably designed on the basis of any predetermined strategy and approach that the policy requires and does not in any case demonstrate that regard has been had to regard to the 'Secured by Design' guidance documents or other Local Plan policies.

It is also noteworthy that the Layout and landscaping details submitted are also in direct conflict with the requirements set out in the ADC Public Open Space, Playing Pitches and Built Facilities January 2020 SPD officially adopted at the Full Council meeting of 15th January 2020.

Policy WM DM1 Waste Management and Policy W23: Waste Management within Development from the West Sussex Waste Local Plan April 2014 (as reviewed in 2019)

The information submitted in respect of the layout of the site makes no reference to or provide for waste management in accordance with these policies

It should be noted that all these policy conflicts and concerns were raised when the Outline application P/134/16 OUT was under consideration by ADC but Pagham Parish Council and others were advised by ADC and its Officers that these concerns would be addressed at reserved matters stage and it is therefore a matter of real concern that this is not the case.

The application for the discharge of Conditions 6 & 7

Condition 6 states:

The first reserved matters application shall be accompanied by a design code masterplan. This document shall demonstrate how the detailed proposals will reflect the objectives of the:

- Development Framework Plan - CSA/2038/119 Rev D - Development Framework Plan Option 1*
- Development Framework Plan - CSA/2038/120 Rev F - Development Framework Plan Option 2 and Option 3*
- Design and Access Statement - December 2016*

The design code masterplan will provide further details on matters such as character areas, street hierarchy, building typologies, key buildings, the approach to car parking, structural planting, street furniture, lighting and treatment of the public realm. The development shall be carried out in accordance with the approved design code masterplan.

On reviewing The Development Framework Plan - CSA/2038/119 Rev D - Development Framework Plan Option 1, Development Framework Plan - CSA/2038/120 Rev F - Development Framework Plan Option 2 and Option 3 and the Design and Access Statement - December 2016 the Council notes that these are not listed as approved plans to which the OPP was granted (Condition 3 and Appendix 1) and that the scale, layout and landscaping shown on these indicative plans are different in each case and that all 3 conflict with the Design and Access Statement dated 2016.

There is no submitted document entitled 'Design Code Masterplan' on the Council's web file with the only document that comes closest to that being entitled 'Design Code' and this does not match the specified requirements in the condition in any case.

The Council is advised that no condition may be imposed on any planning permission (with or without the applicant's consent) unless it can be complied with and is enforceable¹ and a pre-commencement condition like this one that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached as development carried out without having complied with a pre-commencement condition would be unlawful and may be the subject of enforcement action.

Condition 7 states:

The landscaping and layout particulars to be submitted in accordance with Condition 1 shall include:

- i. Details of all existing trees and hedgerows on the land, showing which are to be retained and which removed;*
- ii. Details of the positions, height, design, materials and type of boundary treatment to be provided;*
- iii. Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree*
- iv. The detailed hard and soft landscape design for the development including the layout and design of the public realm within the development;*
- v. Details of the surfacing, lighting and signage of all footpaths, cycle routes and a phasing plan for their provision;*

No hedge or tree shall be felled, uprooted or otherwise removed before, during or after the construction period except where removal is indicated on a plan approved by the Local Planning Authority.

There is no document or plan submitted as part of the reserved matters application allegedly submitted in accordance with condition 1 that provides the details required by condition 7.

¹See <https://www.gov.uk/guidance/use-of-planning-conditions#the-use-of-pre-commencement-conditions>. NPPG Use of Planning Condi

Conclusion regarding the application for the discharge of Conditions 6 & 7

This part of the (invalid) application made falls to be considered and determined in accordance with those procedures set out in Articles 27 – 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) as guided by NPPG Discharging and modifying conditions once planning permission is granted at Paragraphs 032 – 045 Reference ID: 21a-045-20190723. The Council believes for the reasons stated above that these conditions may not be discharged by way of this application and ADC Officers must issue a decision saying so at the earliest opportunity unless they decide to return the application as being invalid as outlined previously in these comments..