

Sandra Edwards

From: Amanda Scholes on behalf of Planning.Responses
Sent: 06 August 2018 08:39
To: Planning Scanning
Subject: FW: Y/44/17 OUT Stakers Farm Yapton

From: paul collins [REDACTED]
Sent: 03 August 2018 15:32
To: Neil Crowther; Simon Davis; Planning.Responses
Cc: [REDACTED]; Karl Roberts; Cllr. Derek Ambler; Cllr. Stephen Haymes; Cllr. Richard Bower
Subject: Y/44/17 OUT Stakers Farm Yapton

Dear All

I understand from agenda item 6 at the DCC on 8 August 2018 that Officers are recommending that this application (amongst others) be reconsidered by the DCC before any decision is issued but no definitive timescale for that reconsideration is recommended. I therefore wish to record the following representations on the file so that they may be taken into account when and if the application is reconsidered.

Determination timescale and methodology

The application should be reconsidered (for all the reasons set out in Agenda Item 6 and more) but it does not necessarily have to be the DCC that does so. The original application was considered by the DCC at its meeting on 11/4/18 because (and only because) the proposals were contrary to the development plan and the officers recommendation was to approve subject to the completion of a S106 (with specified heads of terms) and this was contrary to the representations made by Yapton Parish Council so the application could not be determined by officers under delegated powers at that time. If following the necessary reconsideration officers conclude that the application should now be refused this is a decision that could and should be made under delegated powers. The application has now been under consideration by your council for over a year, the last extension of time agreed with the applicants expired on 13/5/18, an e mail exchange on the file dated 14/5/18 states that the case officers "best guess" as to when a decision could be issued was "mid June" and it would be in the best interests of the LPA if this application were determined at the earliest opportunity.(See PPG Paragraphs 001 – 005 ID: 21b-001-20140306)

How the application must be determined

To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see PPG Paragraph 006 ID: 21b-001-20140306 and section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 – these provisions also apply to appeals).

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.(see PPG Paragraph 012 ID: 21b-001-20140306).

When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission (**PPG Paragraph 001 Reference ID: 21a-001-20140306**) and Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose "such conditions as they think fit" but this power must be interpreted in light of material factors such as the National Planning Policy Framework, the PPG on the use of conditions, and relevant case law. (**PPG Paragraph 002 Reference ID: 21a-002-20140306**)

Conditions should not be imposed (irrespective of whether the applicant agrees or not) where:

- they are not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. (PPG Paragraph 003 and 004 Reference ID: 21a-003-20140306)
- they unreasonably impact on the deliverability of a development, reserve outline application details, require development to be carried out in its entirety, require compliance with other regulatory requirements, require land to be given up or positively require payment of money or other consideration (PPG Paragraph: 005 Reference ID: 21a-005-20140306)
- Other relevant paragraphs in the PPG (Paragraphs 006 – 034 Reference ID: 21a-005-20140306 many of which have been updated since this application was last considered) provide detailed guidance as to how conditions may and may not be used.

S106 Planning Obligations must only be sought where they meet all of the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

The reconsideration of this application

Firstly it is relevant to note that:

- this is an outline application with all matters except for access reserved for later consideration and that pedestrian, vehicular and cycle access to the application site is entirely reliant on the implementation of the access onto North End Road approved under Council reference Y/93/14/OUT and according to the submitted application forms the applicant does not own or control any of the land necessary to implement that planning permission.
- Y/93/14/OUT was an outline planning permission with all matters except for access reserved for later consideration and conditions 1,2, 6 and 7 of that approval combine to mean that the permission itself and the access cannot now be lawfully implemented as the timescale for the submission of the reserved matters has now expired and none have been submitted and no details for the access have been submitted. Therefore a new permission will need to be granted in order for that permission to be implemented.
- The permission granted under Y/93/14 OUT includes land that lies outside of the built up area of Yapton as now defined by the recently adopted ADLP and the Stakers farm application relies on that land for access to their development.
- The whole of the Stakers Farm application site lies outside of the built up area of Yapton as defined in the now adopted ADLP.
- The applicants for the stakers farm application do not own or control any of the land that is required to access their development as proposed.
- Conditions previously proposed for imposition fail the relevant tests and are not compliant with national policy or practice guidance
- The proposed S106 is not Cil Compliant and also includes elements previously agreed but not finalised which conflict with now adopted ADLP Policies and those of relevance in the Revised National Planning Policy Framework.

Based on all the foregoing application Y/44/17 OUT should now be refused at the earliest opportunity for the following three reasons:

1. The proposals are not in accordance with the relevant and material development plan policies SD SP2, C SP1 and AH SP2 and there are no material considerations that indicate that a decision should be made otherwise than in accordance with same.
2. The proposed access to the development which forms part of the application cannot now be achieved over land within the control of the applicant and no conditions relating to same as required can now be imposed.

3. The necessary infrastructure contributions towards education, transport, library, fire and rescue and affordable housing generated by the development proposed cannot be secured by way of conditions or a CIL compliant S106 and the proposals therefore conflict with development plan Policy INF1.

Please place this representation on the file.

Paul Collins BA (Hons) DipTP

