

PLANNING COMMITTEE

1. INTRODUCTION

- 1.1. This report considers planning applications submitted to the Council, as the Local Planning Authority, for determination. It may also include items which are being determined by the Council on behalf of the South Downs National Park Authority.

East Hampshire District Council is acting as an agent for the South Downs National Park Authority in accordance with an agreement signed under Section 101 of the Town and Country Planning Act 1990. Under this arrangement the Council can determine planning applications on sites within the South Downs National Park area of the district on behalf of the National Park Authority. Applications for the South Downs National Park are prefixed with the letters SDNP.

2.1. SECTIONS IN THE REPORT

The report is divided into two main parts;

Part 1 – East Hampshire District Council

This part of the report considers applications and related planning matters which are being determined or considered by the Council as the Local Planning Authority.

Part 2 – South Downs National Park Authority

This part of the report considers applications and related planning matters which fall within East Hampshire District's area of the South Downs National Park and which the Council is determining or considering on behalf of the South Downs National Park Authority.

Each part of the report is split into two sections:

Section 1 - Schedule of Application Recommendations

This Section deals with planning applications that have been received by the Council and which require the Planning Committee to make a decision to grant or refuse permission. Each item contains a full description of the proposed development, details of the consultations undertaken and summary of the responses received, an assessment of the proposal against current policy, a commentary and concludes with a recommendation. A presentation with slides will be made to Committee. Public participation is allowed on Section 1 items.

Section 2 – Other matters

This Section deals with other planning matters which are not the subject of a current application or are current applications which have already been determined and have been subject to a committee resolution to grant or refuse.

No formal presentation will be made to Committee, unless required, and there will be no public participation.”

- 2.2. All information, advice, and recommendations contained in this report are understood to be correct at the time of publication, which is more than *one week* in advance of the Committee meeting. Because of the time constraints, some reports may have been prepared in advance of the final date for consultee responses or neighbour comment. Where a recommendation is either altered or substantially amended between preparing the report and the Committee meeting or where additional information has been received, a separate Supplementary Matters paper will be circulated at the meeting to assist Councillors. This paper will be available to members of the public.

3. PLANNING POLICY

- 3.1. All planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Town and Compulsory Purchase Act 2004). If the development plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the development plan. Where there are other material considerations, the development plan will be the starting point, and other material considerations will also be taken into account. One such consideration will be whether the plan policies are relevant and up to date. The relevant development plans are the Hampshire Minerals and Waste Plan, The East Hampshire District Joint Core Strategy 2014, the East Hampshire District Local Plan: Housing and Employment Allocations 2016 and the saved policies in the East Hampshire District Local Plan: Second Review 2006. The Development Plan also includes made neighbourhood Plans.
- 3.2. Although not necessarily specifically referred to in the Committee report, the relevant development plan will have been used as a background document and the relevant policies taken into account in the preparation of the report on each item.
- 3.3. The East Hampshire District Joint Core Strategy and Local Plan have policies that contain criteria that must be met if a particular form of development is to be allowed. Paragraph 2 of the National Planning Policy Framework (NPPF) February 2019 states: *“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.”*
- 3.4. The Council may sometimes decide to grant planning permission for development that departs from a development plan if other material considerations indicate that it should proceed. One of these material considerations is whether the plan is up-to-date in terms of housing delivery.

4. OTHER MATERIAL CONSIDERATIONS

- 4.1. Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest. They must also fairly and reasonably relate to the application concerned. The Courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design, and external appearance of buildings and the proposed means of access, together with

landscaping, impact on the neighbourhood, and the availability of infrastructure.

4.2. Matters that should not be taken into account are:

- loss of property value
- land and boundary disputes
- the impact of construction work
- need for development (save in certain defined circumstances)
- competition between firms,
- loss of view
- matters covered by leases or covenants
- property maintenance issues
- the identity or personal characteristics of the applicant
- or matters that are dealt with by other legislation, such as the Building Regulations (e.g. structural safety, fire risks, means of escape in the event of fire etc). - The fact that a development may conflict with other legislation is not a reason to refuse planning permission or defer a decision. It is the applicant's responsibility to ensure compliance with all relevant legislation.

4.3. Government statements of planning policy are material considerations that must be taken into account in deciding planning applications. These statements cannot make irrelevant any matter that is a material consideration in a particular case. Nevertheless, where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them.

4.4. In those cases where the development plan is not relevant, for example because there are no relevant policies, the planning application should be determined on its merits in the light of all the material considerations.

5. PLANNING CONDITIONS AND OBLIGATIONS

5.1. The Council can impose conditions on planning permissions only where there is a clear land-use planning justification for doing so. Conditions should be used in a way that is clearly seen to be fair, reasonable, and practicable. One key test of whether a particular condition is necessary is if planning permission would have to be refused if the condition were not imposed. Otherwise, such a condition would need special and precise justification.

5.2. Where it is not possible to include matters that are necessary for a development to proceed in a planning condition the Council can agree a planning obligation under Section 106 of the Town and Country Planning Act 1990. Planning obligations should meet the Secretary of State's policy tests. They should be:

- necessary;
- relevant to planning;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and

- reasonable in all other respects.

5.3. The use of planning obligations is governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer, which are not necessary to make the development acceptable in planning terms. Planning obligations are only a material consideration to be taken into account when deciding whether to grant planning permission, and it is for the Council to decide what weight should be attached to a particular material consideration.

6. PLANNING APPEALS

Applicants have the right of appeal to the Secretary of State if an application is refused, or granted subject to conditions, or if it has not been determined within the specified period. Appeals are administered by the Planning Inspectorate - an executive agency reporting to the Secretary of State. Appeals are considered by written representation, hearings, and public inquiries. In planning appeals, it is normally expected that both parties will pay their own costs. Costs can however, be awarded against the Council where it:

- (a) fails to determine a planning application in good time – the Council must have good planning reasons to explain and justify why it did not make a decision in time.
- (b) fails to carry out adequate prior investigation consistent with national policy and guidance.
- (c) prevents or delays development that should clearly be permitted having regard to the development plan, national policy statements and any other material considerations. It is the Council's responsibility to produce evidence to show clearly, why the development cannot be permitted. Reasons for refusal must be
 - complete,
 - precise,
 - specific
 - relevant to the application, and
 - supported by substantiated evidence.
- (d) fails to show reasonable planning grounds for taking a decision contrary to officer advice
- (e) gives too much weight to neighbour objections - the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons that is supported by substantial evidence.
- (f) relies on unsubstantiated objections where they include valid reasons for refusal but rely almost exclusively on local opposition from third parties, through representations and attendance at an inquiry or hearing, to support the decision.
- (g) fails to show that it has considered the possibility of imposing relevant planning conditions to allow development to proceed.

The following are examples given in Planning Practice Guidance of circumstances that may lead to an award of costs against the Council:

- (a) ignoring relevant national policy – for example, the advice in NPPF,
- (b) where a proposal is contrary to the development plan but the relevant policy has been superseded by national policy which advocates an entirely different approach.

An example might be ignoring national advice in paragraph 77 of NPPF which may allow some market housing to bring forward a rural affordable housing exception site,

- (c) acting contrary to, or not following, well-established case law,
- (d) persisting in objections to a scheme, or part of a scheme, which has already been granted planning permission or which the Secretary of State or an Inspector has previously indicated to be acceptable,
- (e) not determining like cases in a like manner – for example, imposing an additional reason for refusal on a similar scheme to one previously considered by the planning authority where circumstances have not materially changed,
- (f) failing to grant a further planning permission for a scheme the subject of an extant or recently expired permission where there has been no material change in circumstances,
- (g) refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage,
- (h) imposing a condition that is not necessary, precise, enforceable, relevant to planning, relevant to the development permitted or reasonable and thereby does not comply with the advice in the Planning Practice Guidance on the use of conditions in planning permissions,
- (i) requiring the appellant to enter into or complete a planning obligation which does not accord with the tests in para 56 of the NPPF, or
- (j) not imposing conditions on a grant of planning permission where conditions could effectively have overcome the objection identified – for example, in relation to highway matters.

7. THE SECRETARY OF STATE'S ROLE

- 7.1 The Secretary of State has reserve powers to direct the council to refer an application to him/her for decision. This is what is meant by a 'called-in' application. In general, this power of intervention is used selectively and the Secretary of State will not interfere with the jurisdiction of local planning authorities unless it is necessary to do so. The Planning Practice Guidance sets out the type of development proposals that directs local authorities to consult with the Secretary of State before granting planning permission.

8. PROPRIETY

- 8.1 Councillors are elected to represent the interests of the **whole** community in planning matters and not simply their individual Wards. When determining planning applications they must take into account planning considerations only. This can include views expressed on relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.

9. PRIVATE INTERESTS

- 9.1 The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public

interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Covenants or the maintenance/protection of private property are therefore not material planning consideration.

10. OTHER LEGISLATION

10.1 Non-planning legislation may place statutory requirements on planning authorities, or may set out controls that need to be taken into account (for example, environmental legislation, or water resources legislation). The Council, in exercising its functions, also must have regard to the general requirements of other legislation, in particular:

- The Race Relations (Amendment) Act 2000, which prevents discrimination directly or indirectly in any functions, carried out by public authorities.
- The Equality Act 2010, which places a duty on all those responsible for providing a service to the public not to discriminate against disabled people by providing a lower standard of service.
- The Human Rights Act 1998, which incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public hearing), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property). All planning applications are assessed to make sure that the subsequent determination of the development proposal is compatible with the Act. If there is a potential conflict, this will be highlighted in the report on the relevant item.

11. PUBLIC SPEAKING

11.1 The Council has adopted a scheme for the public to speak on all Section 1 items. Where public speaking is allowed, the applicant *or their representative*, the local Parish/Town Council, and one objector may address the Committee, for a maximum of three minutes each, by prior invitation. Members of the public wishing to speak must have contacted the Meeting Administrator in Democratic Services at least 48 hours before the meeting. It is **not** possible to arrange to speak to the Committee at the Committee meeting itself.

11.2 For probity reasons associated with advance disclosure of information under the Access to Information Act, neither the applicant, Parish Council, nor an objector will be allowed to circulate, show or display further material at, or just before, the Committee meeting.

12. INSPECTION OF DRAWINGS

12.1 All drawings are available for inspection on the internet at www.easthants.gov.uk and at the Planning Development Reception area during our normal office hours. The files and drawings will also be available 30 minutes prior to the start of meeting for Councillors to inspect.

13. FINANCIAL IMPLICATIONS

13.1 There are no direct financial implications arising from this report. However, in the event of an appeal, further resources will be put towards defending the Council's decision. Rarely and in certain circumstances, decisions on planning applications may result in the Council facing an application for costs arising from a planning appeal. Officers will aim to alert Members where this may be likely and provide appropriate advice in such circumstances.

Simon Jenkins
Director of Regeneration and Place

Background Papers:

- *the individual planning application file (reference quoted in each case)*
- *the Hampshire Minerals and Waste Plan 2013*
- *East Hampshire Joint Core Strategy 2014*
- *East Hampshire Employment & Housing allocations Plan 2016*
- *East Hampshire District Local Plan: Second Review 2006 - Saved Policies*
- *Adopted Neighbourhood Plans: Alton, Bentley, Medstead & Four Marks, Ropley, Petersfield, Liss, and East Meon*
- *Government advice and guidance contained in circulars, National Planning Policy Framework, Planning Practice Guidance and ministerial statements*
- *any other document specifically referred to in the report.*