

**APPENDIX 2**

**Planning Committee 28 February 2019 - TABLED UPDATE FOR ITEM 2.1**

**18/503135 – Land west of Barton Hill Drive, Minster**

This update is in addition to the report circulated earlier this week regarding the publication by Government of its Housing Delivery Test.

**Further Consultation Responses**

KCC Archaeology – state that the desk-based assessment submitted with the application provides a good description of the archaeological potential of the site, and that pre-application discussions took place with the applicant’s archaeological consultants. Raise no objection subject to a planning condition.

SBC Tree Consultant - Based on the current landscape character of the site, although in outline, the layout as shown on the masterplan would appear to take on board the arboricultural constraints by retaining as much of the existing vegetation, hedges/trees as practically possible. Obviously, the tree constraints plans should be used during the production of the detailed stage of the application to ensure the better graded trees are retained and protected. This can be secured by way of conditions to ensure that detailed applications on this site are supported by a tree impact assessment, method statement and tree protection plan.

**Landscape Impact Update**

The applicant has provided a revised Landscape Impact Assessment which has been amended in response to comments made by the Council’s external Landscape Consultant.

The revised impact assessment provides further ranking effects relating to landscape impacts, taken from a series of receptors in both long and short range views of the site. The ranking effects vary from negligible / low adverse impacts to medium adverse impacts, taking into account the woodland planting proposed to the south and west of the site. The main impacts are on Furze Hill, Lower Road and Barton Hill Drive, and from properties bordering the site. However these fall short of being ranked as significant adverse impacts.

The LVA concludes that inclusion of the additional land beyond the site allocation has a limited impact on the wider landscape, and that the most pronounced adverse effects on the landscape would be mitigated by the woodland boundary planting on the southern and western boundaries of the site.

The revised assessment has only been received this week and I am awaiting more detailed feedback from the Council’s Landscape Consultant. He has however initially indicated that whilst the application will have a greater landscape and visual effect than the allocated scheme, that this effect would be ranked as no greater than a “minor / moderate adverse” effect.

I do not, at this stage, see any reason to change my conclusions on landscape impact as set out in paragraph 8.95 of the main report. However as this is subject to more detailed feedback from the Council’s Landscape Consultant. I would ask for the delegated authority

**APPENDIX 2**

to approve this application to be extended to include this, and confirmation from the consultant that the landscape impacts would not be significantly adverse.

**Further representations**

3 further representations have been received, raising the following issues –

- The Island does not need more homes
- Lack of infrastructure
- Amenities have still not been provided on the Thistle Hill estate, this will be no different
- The development would negate the effect of improving Lower Road / road infrastructure not suitable
- Loss of green space
- Why use green field land when there is brownfield land on the island.
- Great Crested Newts are not confined to the woodland area and use the application site to migrate to other areas. At least some form of green corridor needs to be left or created to allow this to continue.
- The Local Plan has incorrectly identified a small number of large housing sites rather than multiple smaller sites.

*Officer comment* – the suitability of the site for development, local plan allocation, provision of infrastructure and local facilities are set out in detail in the main report.

The presence of Great Crested Newts has been identified in the Great Crested Newt Survey undertaken by the applicant. The survey recommends that an on-site receptor area is provided and sets out that the masterplan includes provision of suitable habitat and new on site ponds and ditches in the north section of the site. This is acceptable to the KCC Ecologist, and proposed condition 37 requires a method statement to identify a suitable receptor site. I am therefore satisfied that this issue has been properly considered and appropriate mitigation provided.

**Representation circulated to Members**

A letter from Consilium Planning has been circulated today to Members. The company represent the owners of the orchard to the north of the site.

The letter sets out that the committee report erroneously refers to the potential management of the orchard as part of the development. This is not the case. The report (para 8.05) identifies that the land is not part of the planning application and sets out (para 8.16) the implications of this, and explicitly states that as a consequence it cannot be managed. This paragraph also considers the potential for future development of the land (as the Consilium letter sets out) and how this would need to be assessed against ecological and landscape considerations, and the presumption under policy A12 that this orchard should be retained. Paragraph 9.01 sets out that the development can provide an appropriate landscape setting to the existing orchard, which I consider to be accurate in the absence of any planning permission for development of the orchard land.

**APPENDIX 2****Conditions**

As now required by the Neighbourhood Planning Act 2017, planning permission may not be granted subject to pre-commencement conditions, without the written agreement of the applicant. The list of conditions in the report has been circulated to the applicant, and a number of changes have been sought. I am content that some of these changes are acceptable and have set these out below. However, some changes sought by the applicant are not yet agreed. This applies to conditions 6, 8, 9, 12, 16, 36, 37, 38, 39, 41, 47 and 48. On this basis I would ask Members that the delegated authority sought is extended to include further consideration of the above conditions, in conjunction with the relevant ward members and chairman.

Members should also note that conditions 23, 27, 28 may alternatively be included as clauses in the S106 agreement under the same terms.

The condition requested by KCC Archaeology is also provided below.

*Additional Archaeology Condition*

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

*Agreed alterations to conditions in main report (using the same condition numbers)*

(bold text indicates additional / altered wording. Strike-through text for wording to be removed)

- 2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of ~~five~~ **ten** years beginning with the date of the grant of outline planning permission.
- 11) Before development commences within a relevant phase details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (~~minimal internal speed of 100mb~~) connections to multi point destinations and all buildings including residential, commercial and community **buildings** within that phase. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.

**APPENDIX 2**

- 15) The reserved matters details for the convenience store / community facility shall make provision for a building(s) of up to 650 sqm **gross** of floor space with associated car parking. The building(s) shall be permitted for uses under classes A1, A3, A4, D1 and D2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose.
- 20) The reserved matters for phase 1 (as shown on drawing 1456.21 Version 07), shall include the provision of a footway on **the development site frontage** on the west side of Barton Hill Drive, and this shall be completed prior to the occupation of any units on the site.
- 29) The reserved matters for each phase shall include measures to provide electric vehicle charging and shall include –
- a) Provision for ~~on-site~~ electric vehicle charging ~~facilities~~ **points** to all dwellings with ~~on-site~~ parking **facilities within their curtilage**.
  - b) Details of provision for electric vehicle charging **points** for 10% of all other residential parking areas (save for visitor parking areas) within that Phase;
- No dwelling shall be occupied until the electric vehicle charging point for that dwelling has been installed (whether for an individual property or a communal point)
- 30) No development shall be commenced until:
- i. the details required by Condition 1 have demonstrated that requirements for surface water drainage can be accommodated within the proposed development layout ~~for that phase~~
  - ii. a detailed sustainable surface water drainage strategy has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and discharged from the site at an agreed controlled discharge rate. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- 35) *This condition has been deleted on the basis that it is a matter for the water company to put in place a timescale for network reinforcement*
- 45) The reserved matters **for each phase** shall include a detailed hard and soft landscaping scheme for all public areas within each phase of development. The scheme shall include the following details -
- Details of the type and quantum, and layout of open space to be provided within each phase (based upon the information contained within the Design and Access Statement / Development Brief and parameters plans submitted with the application).

**APPENDIX 2**

- Soft landscaping proposals, to include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate.
- A detailed scheme for street tree planting (where practicable).
- Hard landscaping details for the public areas, to include details of lighting, hardsurfaces, footpaths and cycleways (including surface finishes), means of enclosure, litter bins, dog bins, and benches.
- Phase 2 (as shown on drawing 1456.21 Version 07) shall include a Neighbourhood Equipped Area of Play, ball court facility and central open space / kick-about facility
- Phases 1 and 5 (as shown on drawing 1456.21 Version 07) shall include a Local Equipped Area of Play / Local Area of Play facility.
- Phase 3 (as shown on drawing 1456.21 Version 07) shall include **(subject to any requirements of Natural England)** a scheme for an extended orchard area and open space in the north east corner of the site, in accordance with the Illustrative Landscape strategy by Lloyd Bore.
- A timetable for implementation

The development shall be carried out in accordance with the approved details and implementation timetable.

**Recommendation**

For clarification, my recommendation is for delegated authority to be given to officers to grant planning permission, subject to –

- Completion of a S106 agreement in the terms set out in the report
- Agreement of necessary conditions with the developer, in conjunction with ward members and the chairman
- Confirmation from the Council's landscape consultant that the landscape impacts would not be ranked as significant adverse

**APPENDIX 2****18/503135/OUT Land West of Barton Hill Drive, Minster-on Sea**

This update report has been prepared as a result of the Government's publication of its (delayed) Housing Delivery Test (HDT) on 19 February 2019.

Paragraphs 4.10-4.13 of the original report set out the Council's five-year housing land supply position as at the time of writing the report. It made clear that the Council's 5.3 year land supply position was subject to influence from the then pending publication of the HDT, the date of publication of which had been delayed since November 2018. The HDT is relevant to the land supply position because it has the potential to increase the 'buffer' from 5% to 20% that would need to be added to housing shortfalls against the Council's annualised housing requirement. Paragraph 4.13 of the report indicated the likelihood that once published, application of the HDT buffer would lead to a reduction in the land supply to 4.6 years. In that event, paragraph 4.14 of the report indicated that an update on the position would be provided for the meeting.

Publication of the HDT on 19 February has indeed confirmed the need for the Council to apply a 20% buffer, which has confirmed the Council's land supply as 4.6 years. This means that as of 19 February 2019, the Council can no longer demonstrate a five-year supply of housing land. This is a change from the conclusion reached at paragraph 4.14 of the original report.

Whilst it remains the case, as set out in paragraphs 8.10-8.17 of the report, that certain elements of the scheme are not in accordance with the Local Plan, the basis for the recommendation made to Members, as set out in paragraphs 9.01-9.08, has changed in the light of the new land supply situation.

The basis for the recommendation in original report is one where officers acknowledge that elements of the proposal are not in accordance with the statutory purpose of the development plan, but where nevertheless it is considered that material considerations apply that justify departing from it, i.e. a grant of planning permission. The lack of a five-year supply now changes this to one where paragraph 11d) of the NPPF would now applies.

In effect, NPPF paragraph 11d) means that the most important Local Plan policies for determining the application are judged as being 'out of date'. This does not mean that they carry no weight in decision making; rather that to refuse planning permission, the proposals would need to either clearly offend policies that protect areas or assets of particular importance, as set out by the NPPF (paragraph 11d)i, or that the weight given to the benefits of the scheme (including any housing provision) is significantly and demonstrably outweighed by adverse impacts (NPPF paragraph 11d)ii.

Paragraphs 9.07-08 of the officers original report already confirms that neither of these matters can be justified in the case of this application.

A matter not specifically considered by the originally report, but which is now relevant in the light of the HDT, is the contribution that the application site is envisaged as making to the five-year supply. In arriving at its land supply position for 2017/18 (i.e. the 4.6 years), the Council has assumed a contribution from the site of 100 units within the five year supply. If planning permission is refused, this contribution could not be made. This could result in future pressure on the Council's five year

**APPENDIX 2**

housing land supply position. Members should therefore also view this as a matter in favour of granting planning permission.

The effect of this update report is that officer's recommendation to Members in the original report remains unchanged.