



Agenda Update Sheet

District Planning Committee

Date 20th August 2019

Agenda Item 5:

Other Matter

APPLICATION NO: DM/18/2342

An email has been sent to all committee members from Cllr Dempsey stating the following;

'I am writing as ward member for Hassocks, with regard to your meeting tomorrow (20th August) to discuss the forthcoming Appeal of application DM/18/2342 at Friars Oak Fields.

I urge you not to withdraw the reasons for refusal that were outlined when the Committee made its original decision in November last year. My reasons for requesting this are as follows:

Conflict with the District Plan and Neighbourhood Plan

- *The key reasons outlined for refusal at the time are still in place - that this proposed development conflicts with MSDC's own District Plan in several areas, specifically DP6, DP12 and DP15.*
- *In addition, since the last refusal the Hassocks Neighbourhood Plan has progressed to Regulation 16 stage, and designates this site as Local Green Space. The legal weight for refusing this application is therefore even greater than it was in November 2018.*
- *The District Plan explicitly names Hassocks as having already met its housing allocation for the duration of the plan.*
- *The five-year housing land supply has been assessed as robust.*
- *There is therefore no justification for approving this application in breach of several aspects of the District Plan and the Neighbourhood Plan.*
- *In particular, there is no way to justify to the community of Hassocks - which strongly objects to this development - why it is required.*
- *It is, in my view, essential that MSDC vigorously defends its own District Plan that represents the product of a local democratic process.*
- *To disregard it in response to pressure from a developer would set a troubling precedent, and suggest to many constituents that MSDC is more concerned about responding to developers than to the democratically expressed wishes of communities.*

Conflict with an existing Article 31 holding direction regarding application DM/19/1897

- *As the documents prepared indicate, the Committee is being urged to withdraw the reasons for refusal based in part on its approval of the near-identical application DM/19/1897 in July.*
- *However, the Committee will be aware that this application is currently the subject of an Article 31 holding direction from the Ministry for Housing, Communities and Local Government, while the Secretary of State considers whether to call it in.*
- *To withdraw the reasons for refusal of application DM/18/2342 in expectation that it will be approved on appeal in September would undermine the Article 31 holding direction and the role of the Secretary of State - by effectively pushing through an identical application on the same site using a different mechanism.*
- *This would set a precedent by which developers can continue to submit multiple identical applications in the hope that one is ultimately approved - which would undermine the integrity of the planning process as a whole.*

I feel strongly that the decisions made by the Committee will have an impact on how members of our community view the planning process, and the process of local democracy generally.

If MSDC is seen to be unwilling to defend its own District Plan against repeated applications by a developer, in a village that has already exceeded its housing allocation, that will significantly erode trust in MSDC and the entire system by which these decisions are made.

I urge you to maintain the reasons for refusal, and prepare to defend the original decision vigorously at Appeal in September.'

A further representation (making 2 in total) has been received making the same points as above.

In response officers have circulated the following response to committee members;

'Councillors of District Planning Committee

I am writing further to the email sent to you by Councillor Dempsey yesterday.

The decision on the Other Matters Item before you today is of course a decision for Councillors. However I felt it was important that Officers clarify the purpose of today's meeting and also address some of the inaccuracies in Councillor Dempsey's email.

Firstly, the Report before Committee today is NOT asking Members to re-consider the planning application now subject of an appeal or to re-consider the application approved on 25 July but is asking Members to consider the reasons for refusal in the light of changing circumstances in order to provide guidance on how the appeal should be addressed by the Council.

This approach is in line with best practice set out in the Planning Inspectorate's Procedural Guidance on Planning Appeals which makes clear that Councils must review changes in circumstances since the original decision on an application; must assess the implications of such changes; in the light of such changes must not behave in an unreasonable way; and must inform the Inspectorate accordingly. In addition, the PPG on Appeals (Para s 046 and 049) makes clear the circumstances when an award of costs can be made against a local planning authority. Circumstances include the failure of the lpa "to review their case promptly ... as part of ongoing case management". The Council therefore has no option but to bring this report to this Committee.

There is a suggestion in Councillor Dempsey's letter that by withdrawing reasons for refusal on the application subject of appeal (DM/18/2342) officers will be undermining "the integrity of the planning system by allowing developers to submit multiple identical applications in the hope that one is ultimately approved." This is simply not the case. The planning system operates in a clear legislative framework which requires local planning authorities to make timely decisions on applications submitted to them. The proposals in the three applications for the Friars Oak site are fundamentally different: the first proposed no means of crossing the railway line; the second proposed a bridge; and the third proposed a tunnel. The provision of a tunnel as a means of access across the railway line is a significant difference. It addresses a clear concern raised during the DPC debate on the refused application and would be of significant public benefit.

Officers are recommending the amendment to the reasons for refusal because (consistent with the Secretary of State's own previous decision) it removes the only substantive objection to the grant of permission. It follows from the Council's decision on Application 3 that the Council considers the grant of permission for a scheme which incorporates the tunnel is in the public interest. Having reached that decision, it would be illogical for the Council to resist the amendment.

I must stress that the matters regarding the conflict with the Development Plan and the weight to be afforded to the Neighbourhood Plan set out in Cllr Dempsey's letter were clearly and appropriately addressed in the Officers Report and during the debate at Committee at the meeting on 25 July when considering Application 3. At that meeting Members also carefully considered the other material consideration including the significant public benefit of the provision of a tunnel in order to address the crossing of the railway line. This was weighed up in the final planning balance and the DPC arrived at the resolution to grant in this context. This resolution has been made and is not subject of review.

There is some confusion regarding the Article 31 Direction and its relationship with the matters before Councillors today. To make clear, the Article 31 is a delaying mechanism to give time for the SoS to decide whether to call in an application to determine the merits of the case himself. In arriving at a decision on whether to call in the application the SoS will consider a range of planning criteria and circumstances. The Article 31 Direction does not impact on this authority's ability to consider planning applications. There has been no impropriety in the Council considering whether permission should be granted. As yet there has been no decision made by the SoS.

Finally, I must emphasise that this Council will robustly defend its 5 Year Housing Land Supply position, and therefore the District Plan, at the forthcoming appeal.'