

PLANNING COMMITTEE
4th October 2016

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE
PUBLICATION OF THE AGENDA AND ERRATA**

Item Number 9/1(a) **Page Number** 8

Clarification: NOTE: The report on pages 11 to 30 of the agenda papers is the report previously considered by the committee on 7th March 2016 and forms an appendix to the current agenda item on pages 8 to 10.

Item Number 9/1(b) **Page Number** 31

Clarification: NOTE: The report on pages 36 to 57 of the agenda papers is the report previously considered by the committee on 5th April 2016 and forms an appendix to the current agenda item on pages 31 to 35.

Applicant's solicitors: Letter from Gerald Eve LLP acting for Bennett Homes. Letter sets out why planning permission should be granted and asks that the recommendation is amended. Four key points are made:-

- a) In relation to the Section 106 Agreement a draft was only provided for our clients to consider seven weeks before the four month period ended and that certain critical information was not provided until after the expiry of that period;
- b) Bennett Homes have provided the Council with a draft Section 106 Agreement which meets all your requirements (subject to some minor drafting points to conclude) and which can be agreed and completed in a matter of days;
- c) In relation to the Council's 5 year housing land supply, the application was included in the calculations provided to the Heacham inquiry to prove an adequate land supply and was regarded as critical for that purpose; and
- d) The application site is in a highly sustainable location and that, in your own [sic] words "would not have a detrimental impact in respect of form and character or neighbourhood amenity".

The letter concludes that "The site is sustainable and you [sic] have before you a Section 106 Agreement prepared by our clients which meets all the requirements of the 5th April Committee resolution. We urge you to reconsider your recommendation and to recommend that [the] Council grants planning permission subject to completion of the Section 106 Agreement. We confirm that the conditions set out in [the] earlier report are acceptable to our client".

In addition, a revised Section 106 agreement has been received from another firm of solicitors, Hogan Lovells, also acting for Bennett Homes.

Officer comment: Dealing with the applicant's points one by one:

- a) The applicant raises issues about the timescale for responses etc.. On the point about 'certain specific information' being provided after the 4 month deadline, the applicant's letter refers to the Council's Housing Development Officer's response not being received until 26th August but does not specify what other information was not received. The Housing Development Officer's comments on the split of affordable housing was provided in an e-mail response to consultation on

November 2015 in which he stated 8 affordable units should be provided; 6 for rent and 2 for shared ownership. Notwithstanding any delays that may or may not have occurred, the Committee resolution of 5th April is clear that permission should be refused of the Section 106 agreement is not completed within 4 months of the resolution, i.e. by 5th August;

- b) Correspondence from Hogan Lovells (a separate firm of solicitors acting for Bennett Homes in the preparation of the Section 106 Agreement) dated 27 September 2016 indicated that the applicant, notwithstanding the resolution of 5th April, disputed the need for Sustainable Urban Drainage to be included in the agreement and raised issues with 3 other points. A subsequent e-mail from the same firm was received at 4:23pm on 29th September. With no explanation, the objection to the inclusion of SUDS and other points has been dropped. It now appears that the latest draft of the Section 106 Agreement does cover all the issues required by the resolution of 5th April;
- c) The site at Watlington was included within the 2015/16 housing trajectory schedule submitted as evidence to the 'Heacham' inquiry and therefore formed part of the Borough Council's five year land housing land supply calculations. The site was included within the 'Permissions Granted Subject to S106' section of the housing trajectory schedule. At the time the trajectory was compiled permission had been granted for the site subject to the resolution of the S106 agreement within the prescribed timescale. Intelligence gathered from Bennetts Homes shortly after the 'Heacham' proofs were exchanged confirmed that the site should be included within this section of the trajectory. The Borough Council's approach to calculating five year land supply included a lapse rate. This recognised that not all of the permissions granted would complete. The 'Heacham' Inspector's Decision Letter does detail the application of 10% lapse rate, which the Inspector applied to a number of sources of housing supply including those permissions granted subject S106 resolution, in arriving at what he believed the five year housing land supply position to be for the Borough. Moving forward, when the next version of the housing trajectory schedule is prepared and the five year land supply position calculated there will be an analysis of sites, as per the NPF and PPG. The schedule, and calculation, will exclude those planning permissions that have lapsed, and the calculation will include an appropriate lapse rate.
- d) The comments made in the report to committee on 5th April 2016 were made in the absence of a 5 year supply of land for housing. Circumstances have now changed; the Council has a 5.81 year supply of housing land, the calculations for which included an allowance that some sites included in the trajectory would not come forward (the lapse rate referred to above). The application site is not critical to the 5 year housing land supply figure. The application site is outside the settlement boundary and is contrary to Development Plan policies.

In the light of the revised Section 106 Agreement, the Committee is asked to consider removing reasons for refusal 2 to 5 inclusive, but retaining the objection on reason 1, development in the countryside.

Item Number 9/1(c) Page Number 58

Correction: There is an error in the planning history of the report on page 60 of the agenda. 12/01210/RMM does not refer to the current application site but to another part of the Council's land known as Phase 1, which has been built out.

11/00406/RMM covers the whole of the Council's current land holding on this part of the NORA site. The part of that consent that refers to the current application site granted approval for 56 units compared to the current application, which is for 50.

References on subsequent pages of the agenda to 12/01210/RMM should be ignored.

The last sentence of the paragraph on page 62 under principle of development should be amended to read 'There is also a reserved matters approval for 56 units on the land in question so the current application for 50 units represents a reduction'.

The last sentence of the first paragraph on page 63 should be amended to read 'The height of the units is also similar to those approved under application 11/00406/RMM'.

The 2nd sentence in the paragraph on page 64 under 'Conclusion' should be amended to read 'It is for 50 units and follows approval of 56 units of a similar scale on the same site'.

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Heacham Parish Council: NO OBJECTION to the application but request conditions to cover two issues:-

1. Limit the number of units to a maximum of 8; and
2. Secure a scheme for footpath lighting.

Specifically, the following wording is requested:

"Any footpath lights deemed necessary as a result of application 16/00245/O must be of a type and style agreed with Heacham Parish council and also supplied by their preferred lighting contractor; the developer to pay for both purchase and installation".

Officer comments: The request from Heacham Parish Council re: limiting the number of units is reasonable and a condition is suggested below. On the matter of footway lighting, the Committee will need to consider whether or not such a condition is necessary in order to make the development acceptable.

The wording suggested by the Parish Council is not acceptable as a condition can only be discharged by the Borough Council as the Local Planning Authority; the condition cannot rely upon the agreement of the Parish Council or any other 3rd party. The Parish could be consulted on any details submitted but the decision to discharge the condition or not would remain with the Borough Council

If the committee is minded to grant planning permission, it is suggested that an additional condition is added as follows:-

20 Condition The consent hereby granted relates to the construction of not more than 8 dwellings on the land.

20 Reason For the avoidance of doubt and to clarify the nature of the permission.

Item Number 9/2(e) **Page Number** 123

Department for Transport: Copy of the Order made under Section 247 of the Town and Country Planning Act 1990.

Officer comment: The Order has been made to 'stop up' highway rights across the existing track in the immediate vicinity of the turbine. However, the stopping up is conditional upon the applicant (Mickram Ltd) providing a new highway along the alignment

that is the subject of the planning application before committee on this agenda.

Item Number 9/2(i) **Page Number** 153

Third party: One of the objectors has sent in a copy of the decision notice for application 15/00218/F as well as a photograph for inclusion in the presentation.

Officer comment: The reasons for refusal of application 15/00218/F are set out on page 159 of the agenda papers. This decision was appealed and dismissed on appeal. The Inspector's report is included on pages 171 to 174 of the agenda papers.