



**Horsham
District
Council**

DEVELOPMENT MANAGEMENT REPORT

TO: Development Management Committee (North)
BY: Development Manager
DATE: 1 November 2016
DEVELOPMENT: Approval of details reserved by conditions 6 and 7 on DC/13/2042
SITE: 1 Hayes Lane Slinfold Horsham West Sussex
WARD: Itchingfield, Slinfold and Warnham
APPLICATION: DISC/16/0110
APPLICANT: Mr James Harris

REASON FOR INCLUSION ON THE AGENDA: More than 5 letters of representation received contrary to Officer recommendation

RECOMMENDATION: Confirm compliance with Conditions 6 and 7

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.1 This application seeks to agree the details in respect of Conditions 6 and 7 attached to planning application reference DC/13/2042 which related to the development of the site to provide 23 x dwellings, vehicular and pedestrian access and a range of community measures including a replacement football pitch with improved drainage levelling, new car parking and upgraded access to serve the existing recreation ground, new tennis pavilion and siting for additional tennis court, with associated works and landscaping.

1.2 Condition 6 stated that:

Prior to the commencement of development, details of the phasing strategy for the development hereby permitted shall be submitted to and approved, in writing, by the Local Planning Authority. The submitted strategy shall include: the intended order of phases for each of the elements of the development; details of the alterations to the existing vehicular accesses onto the public highway; details of the internal road layout; and the means of construction access for each phase. The development shall thereafter proceed only in accordance with the approved phasing strategy details.

1.3 The submitted details indicate that:

- Phase 1 – Works to provide the community Facilities on the existing sports ground, taking approximately 16-18 weeks.

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Phase 2 – Commencement of construction of housing on the northernmost part of the site, anticipated to run between November and January.

Phase 3 – Commencement of the construction of housing on the southernmost part of the site. This phase would commence 2nd January 2017. These two phases (2 and 3) would take approximately 60-64 weeks

- The access to the completed community area and the house on plot 23 will be via the access to Cherry Tree Farm with access to the completed residential scheme units 1 – 22 via Maydwell Avenue, accessed from the Hayes Lane end of the road.
- The road layout follows that shown as part of the originally approved scheme with two separate accesses as described above.
- The means of construction access would be to Phases 1 and 3 from Maydwell Avenue (from its western end where it adjoins the A29) and Phase 2 via Maydwell Avenue where it adjoins Hayes Lane.

1.4 Condition 7 stated that:

Prior to the commencement of development, including any works of demolition, until a Construction Management Plan has been submitted to and approved, in writing, by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate, but not necessarily be restricted to, the following matters:

- *the anticipated number, frequency and types of vehicles used during construction;*
- *the method of access and routing of vehicles during construction;*
- *the parking of vehicles by site operatives and visitors;*
- *the loading and unloading of plant, materials and waste;*
- *the storage of plant and materials used in construction of the development;*
- *the erection and maintenance of security hoarding;*
- *the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);*
- *measures to control the emission of dust and dirt during demolition and construction,*
- *lighting for construction and security;*
- *details of public engagement both prior to and during construction works.*

1.5 The submitted details indicate that:

- The anticipated construction traffic volume amounts to 35 construction vehicles each way per day with a maximum of an additional 20 construction staff cars per day. It is anticipated that deliveries would be made during the hours of 9.30am – 3pm and that the types of lorries used would range from small vans to fixed axel delivery lorries. We are advised that articulated lorries will not be used due to access restrictions, however it is not possible to quantify precisely the number and type of each vehicle to be used.
- As referred to above, construction traffic for phases 1 and 3 would gain access to the site via Maydwell Avenue where it passes through the adjacent industrial estate to the rear of the Hayes Lane properties. Phase 2 would be accessed via Maydwell Avenue where it adjoins Hayes Lane. The submitted details show that construction traffic would be routed via Stane Street and Hayes Lane – so would not be routed through the village of Slinfold, but via the rural roads to the south of the village.

It appears that when the original application was considered that the applicants had indicated that they would utilise the adjacent industrial estate to gain access to the site and thus avoid the use of Hayes Lane and that part of Maydwell Avenue which adjoins Hayes Lane. As controlling the use of public highways falls outside the remit of planning control, the approach did not form part of any legal agreement or condition and is therefore not binding upon the applicant.

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- The submitted plan indicates that the parking for site operatives and visitors would be on an existing gravelled area to the rear of properties in Hayes Lane which would be accessed via Hayes Lane and Maydwell Avenue during phase 1; during Phase 2 in a compound lying at the rear of phase 2 where it adjoins the industrial estate – again accessed via Hayes Lane/ Maydwell Avenue and during phase 3 in a compound adjacent to the rear boundary of the site where it adjoins the industrial estate. Again this would be accessed via Hayes Lane/Maydwell Avenue. During phase 1 and most of phase 3 construction traffic would be routed via Maydwell Avenue where it crosses through the industrial estate. The exception being at the end of phase 3 when the final two plots are being built and which lie in the path of the construction route from the industrial estate. Phase 2 would bring traffic through Hayes Lane/Maydwell Avenue.
- The loading/unloading of materials would take place within the site for all three phases - with plant/materials storage facilities during phases 2 and 3 being located in the middle of the site during phase 2 and towards the southern boundary during phase 3. Both compounds lying adjacent to either a parking area or the access road through the estate. The materials will be delivered as close to the storage area as possible and would then be moved by forklift truck to the storage area. All such activities to be supervised by a Banksman. During Phase 1 the plant and machinery used in that phase will be stored either within the materials storage area or at the top of the ramp adjacent to the football pitch.
- Security hoarding around the site would comprise Heras fencing around the majority of the site boundaries with close boarded fencing or hoarding along the boundary with the industrial estate and around the Maydwell Avenue entrance to the site.
- Wheel washing facilities comprising the use of high pressure hoses would be located adjacent to the access ramp for Phase 1 into the sports fields and adjacent to Maydwell Avenue for phases 2 and 3.
- the control of dust and dirt will include management of earth stockpiles, sheeting of vehicles transporting materials to and from the site, limitation of traffic speeds within the site, surfacing of the haul roads as early as possible in the programme, haul roads to be regularly cleaned, wheel cleaning facilities into local roads, water spraying during earth moving and excavations during dry weather, drop heights of materials when being loaded/unload will be minimised, regular clearing of site roads and public roadways, storage compounds screened to prevent wind whipping, activities that are inherently dusty ie stone cutting, will be carried out only in certain areas or restricted to certain times in order to limit the impacts and sited away from the site boundary or screened if more practical.
- Lighting is only proposed to be installed to ensure a safe well lit route for pedestrian access to and from the site during the winter months.
- Public Engagement would include maintaining communication with neighbours via letter drops every 8 weeks and signage as a minimum. The developer participates in the Considerate Contractors Scheme which includes consideration of a number of issues as detailed above and including contact with surrounding residents. The leaflets will provide the site managers details

DESCRIPTION OF THE SITE

- 1.6 The application site lies to the west of Hayes Lane, adjacent to but outside of the built-up area boundary of Slinfold, a medium village as defined within the Horsham District Planning Framework (HDPF). The site is situated to the rear of properties No's. 1 to 25 and Halland Cottage, Hayes Lane, wraps around Cherry Tree Farm and then comprises a plot to the rear of Spinners, Hayes Lane and includes the existing recreation ground. The total site extends to approximately 3.37 hectares.
- 1.7 The northern section of the site is accessed from the eastern portion of Maydwell Avenue, which currently provides access to the rear of a number of the properties along Hayes Lane and the existing car parking area serving the football and tennis clubs. Maydwell Avenue continues further to the west through the Business Park and links up to the A29. This western portion of Maydwell Avenue forms the vehicular access point for the Business Park.
- 1.8 The southern section of the site is accessed via the existing driveway to Cherry Tree Farm and comprises an area of land to the rear of Spinners, Hayes Lane and the existing recreation ground which provides a grassed football pitch, 3 No. hardsurfaced tennis courts and a single storey red brick pavilion building shared between both the football and tennis clubs.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT GOVERNMENT POLICY

- 2.2 National Planning Policy Framework (2012) (NPPF)
 - Section 4: Promoting sustainable transport
 - Section 6: Delivering a wide choice of high quality homes
 - Section 7: Requiring good design
 - Section 8: Promoting healthy communities
 - Section 10: Meeting the challenge of climate change, flooding and coastal change
 - Section 11: Conserving and enhancing the natural environment
- 2.3 National Planning Policy Guidance (2014)
Technical Guidance to the NPPF (2012)

RELEVANT COUNCIL POLICY

- 2.4
 - Policy 1: Strategic Policy: Sustainable Development
 - Policy 24: Strategic Policy: Environmental Protection
 - Policy 33: Development Principles
 - Policy 40: Transport

RELEVANT NEIGHBOURHOOD PLAN

- 2.5 Slinfold Parish have been designated as a Neighbourhood Plan Area and produced their pre submission draft in April 2016

PLANNING HISTORY

DC/13/2042 Redevelopment of site to provide 23 x dwellings, vehicular and pedestrian access and a range of community measures including a replacement football pitch with improved drainage levelling, new car parking and upgraded access to serve the existing recreation ground, new tennis pavilion and siting for additional tennis court, with associated works and landscaping Granted

3. OUTCOME OF CONSULTATIONS

INTERNAL CONSULTATIONS

3.1 **HDC Environmental Health Officer: (summarised)**

As discussed the broad principles in the CEMP are fine. Further details have been provided in the form of a Construction Environmental Management Plan and Construction Noise and Vibration Control document. I can confirm that I raise no objections in respect of this submission.

With respect to the traffic movements its unlikely that routing of construction traffic via Stane Street and Hayes Lane into Maydwell Avenue will result in unacceptable impacts in terms of the statutory standards for road traffic noise or air quality. However if you are minded to permit this I would recommend that this routing traffic should be limited to the construction phase only and should be discontinued as early as practical.

OUTSIDE AGENCIES

3.2 **WSCC Highways: (Summarised)**

There will be up to 35 daily movements during the construction phase. Some traffic will enter the site via Hayes Lane from the A29 junction with parking provided on site for contractors. Deliveries will take place in the off peak hours from 09.30 to 15.00. The applicant will need to liaise with the local area highway manager on any temporary closures or service connections. Having considered the information provided, the details from the highway perspective are considered acceptable.

I suggest we add a Section 59 Agreement to the CEP: having assessed the road further and the construction of Hayes Lane, the applicant would be required to enter into a Section 59 agreement under the 1980 Highways Act. Such an agreement would enable the Local Highway Authority (LHA) to recover from the developer the cost of repairing any damage that occurs to the highway as a consequence of the development. The developer should seek early engagement with the WSCC Asset Management team to prepare the s59 agreement before works fully commence.

With regards to the access onto Hayes Lane, it is my understanding that the signing is advisory. The applicant has stated that they intend to bring construction materials to the site during the off peak period which is preferable and with a maximum of 35 daily movements. Other than asking for a dedicated drop off facility where materials are transferred to smaller vehicles such as vans and then taken to the site, I don't think there is much more we can ask for here.

PUBLIC CONSULTATIONS

3.3 Slinfold Parish Council:

Slinfold Parish Council strongly objects to the proposal put forward as the proposed access via Hayes Lane totally goes against everything that has been promised to the Parish Council and Slinfold residents and we understand too that assurances were given to HDC that construction traffic would not access the site this way. WSCC was consulted and whilst they did not object, their no objection was based on a case put forward by Slinfold LLP to access the site via Maydwell Avenue.

Slinfold LLP (the applicant for DC/13/2042) has confirmed recently that “specific assurances were given to the Parish Council, local residents and HDC that access would be through the Business Park. All the rights to use the benefit of the Business Park are in place and available for A2Dominian to use”

As provision has been made to allow for access through the Business Park (Maydwell Avenue), the PC feel very strongly that HDC and WSCC should hold the developer to that.

In addition, the PC agrees that access via Hayes Lane is totally unsuitable, the Lane is very narrow and not suitable for construction traffic, we understand that access to Phase 1 (shown as a green arrow) is via a part privately owned drive and there are restrictions over access to Phases 2 and 3 (shown as blue arrow). Has the developer received the necessary permissions to use these roads for access?

Also, problems were raised as part of the initial WSCC Strategic Planning consultation and a road safety audit raised concerns with regard to visibility and street car parking. This is still a problem

- 3.4 49 letters have been received in response to the first consultation with a further 12 received as a result of the re-consultation raising the following summarised objections:
- Noise
 - Pollution
 - An existing sign advises that Hayes Lane is ‘Unsuitable for HGV’s’
 - The road is a narrow country lane which is single width in part – this would lead to highways safety issues
 - Conflict with walkers, cyclists, horse riders and others using Hayes Lane.
 - Damage to the public highway
 - As part of the original consent the applicant confirmed use of the industrial estate to access the development site.
 - Impact upon ecology on the site
 - No time limit on the inconvenience experienced by residents

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

- 6.1 The main issues concern the principle of access to the site to implement planning permission DC/13/2042, impact upon resident's amenities and impact upon highway safety.

The Principle of Access to the Site:

- 6.2 Conditional planning permission was granted for the redevelopment of this site – subject to a number of conditions controlling the details of the scheme and the manner in which the scheme would be implemented. The conditions under consideration now being two of the conditions seeking to control the manner in which the scheme would be implemented. Reference has been made by objectors to the fact that at the original application stage the applicant committed to using an access route through the Industrial Estate to the rear of Hayes Lane to access the site rather than the surrounding public highway. However this was not confirmed by condition or part of a legal agreement, as planning control cannot extend to restricting access to public highways. So whilst a CEMP cannot restrict the use of a highway it can set out the preferred route for vehicles to ensure site operatives are aware of this. Therefore the principle of the development of the site has been found acceptable subject to the agreement by the Council of the Phasing Details and the Construction Management Plan (CMP) with no specified access route to the site.
- 6.3 The phasing condition was attached to ensure that the development is constructed as approved and in the interests of controlling the impact of the development during construction. The reason given for the CMP was in the interests of highways safety and the amenities of the area.
- 6.4 Any conditions attached to a planning permission must meet the following tests: be necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects. In the case of conditions 6 and 7 the Council cannot refuse confirmation of compliance with these conditions and thus prevent development unless the impact of the details under consideration would be significantly harmful to the amenities of the area or cause highway safety issues that would represent a danger to the use of the adjacent highway. These issues are considered below, but the principle of access to this site to carry out the development previously approved has been established by the existing extant permission, in relation to which there was no highway related objection, and therefore cannot be refused as a matter of principle because the applicant now seeks to utilise a different access, compared to that previously indicated.

Impact upon the Amenities of the Area:

- 6.5 One of the core planning principles within the NPPF is to seek a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 6.6 Policy 33 of the Horsham District Planning Framework seeks to ensure that developments shall be required to ensure that they are designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development. This criteria however is to be considered in terms of the completed development and how it interacts with its surroundings – this policy does not specifically address the impact of the construction of a development.
- 6.7 The phasing condition seeks to build out the community works first turning to the commencement of residential works approximately 1 month into the first phase. Thereafter the two residential phases would follow on from each other – moving across the site developing from the northern part of the site to the central part of the site. This is considered acceptable – the works to phase 1 being accessed from the industrial estate

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and providing relatively little impact upon local residents other than the traffic drawn to the site belonging to those working on the site. This delivers the important community works first and is to be supported.

- 6.8 The CMP proposes that some construction traffic be routed via Hayes Lane for phase 2 and then into Maydwell Avenue. The precise length of time for this routing is unknown – it depends upon the eradication of Japanese Knotweed that lies adjacent to the access proposed from the industrial estate into this site. It is hoped that the site upon which the knotweed lies will be cleared for use in January 2017, but that will not be known until next year. The proposed routing via Hayes Lane would potentially involve traffic lights being installed to control traffic through those parts of Hayes Lane of insufficient width to allow two lanes of traffic –the precise details of such works would be subject to discussion with the County Highways Authority.
- 6.9 The potential impact upon residents are additional noise and disturbance and inconvenience of construction traffic and vehicles belonging to those working on the site passing along Hayes Lane and then Maydwell Avenue before entering the construction site for a period of some months – until the Japanese Knotweed has been confirmed as eradicated (at which point the industrial estate could be used to route construction traffic). Whilst this use of Hayes Lane would undoubtedly be different and greater than that currently taking place, it is not considered that the levels of noise, disturbance or other harm would be so significant as to warrant refusing the condition details of this application. The Council's Environmental Health Officer confirms that he would raise no objections in this respect. It would undoubtedly change the character of the lane for the duration of its use, introducing construction traffic where normally this is either very limited or non-existent, however, the planning system is unable to control the use of public highways, and, in addition, the Highways Authority have not raised any objection to the proposed routing.
- 6.10 Development sites across the District involve construction traffic using both urban and rural roads – whilst resulting in a temporary change in environment this would never be sufficient for a normal scale of development to warrant a refusal on amenity grounds. Such an approach could potentially prevent significant development from taking place. In this instance whilst sympathetic to the changes that have taken place compared to the routing understood to have been proposed as part of the original application, the developer cannot be forced through the planning system to stand by any such proposals. Therefore this case has to be judged on its individual merits and the resulting impact is not considered to be so significant as to warrant a refusal.
- 6.11 The other elements of the CMP are considered to be acceptable and to minimise as far as possible the impacts upon local residents. Details have not been submitted of the proposed lighting around the site and therefore this condition can only be discharged in part.
- 6.12 It is considered that the scheme, whilst causing a difference in the environment around Hayes Lane for the duration of the use by construction traffic, would not be so harmful to individual amenities as to warrant a refusal of permission.

Highways Safety:

- 6.13 Condition 7 was imposed partly in respect of concerns about highways safety. The routing of the construction traffic has been assessed by the County Highway Authority and they raise no objections subject to a S59 Agreement being completed by the applicant to ensure that any damage to the public highway by the construction traffic is compensated.. The issue of highway safety is not a subjective issue, rather one that is judged by reference to technical standards. Therefore whilst residents may be concerned about the potential impacts of this proposal, if the Highways Authority is satisfied that the scheme can be

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accommodated without causing any adverse highway safety issues then objections on these grounds would be very difficult to sustain.

- 6.14 It is considered that the proposed use of Hayes Lane to access the development site during the construction of Phase 2 would not result in dangerous or harmful highways conditions and the scheme is therefore considered to be acceptable in this respect.

7. RECOMMENDATIONS

- 7.1 To approve the phasing details submitted in respect of Condition 6 and to approve the details in respect of Condition 7 in part: Details of lighting have not been submitted so will need to be submitted as part of a separate application in order to complete the approval of Condition 7. It is recommended that the determination of lighting as part of Condition 7 be delegated to officers.

Background Papers: DC/13/2042