



Committee report

Committee	PLANNING COMMITTEE
Date	28 FEBRUARY 2017
Title	CALL-IN PAPER REGARDING P/00760/16: LAND SOUTH OF WESTRIDGE FARM, AND TO REAR OF 10 TO 38 CIRCULAR ROAD OFF HOPE ROAD, RYDE
Report of	HEAD OF PLACE

EXECUTIVE SUMMARY

1. The application was reported to the Planning Committee on the 24th January 2016 with a recommendation of conditional approval subject to the conclusion of a section 106 agreement. The papers for the item can be viewed [here](#).
2. Members voted to refuse the application on the grounds of unsuitable access.
3. The purpose of this report is to outline the potential risks associated with the proposed reason for refusal presented by Members at the committee meeting of 24th January 2017.
4. The report recommends that the proposed reason is not sustainable.

PLANNING DECISION-TAKING

5. To the extent that development plan policies are material to an application for planning permission, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. This is enshrined within the Planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004)
6. The National Planning Policy Framework stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 14 of the National Planning Policy Framework.

EVALUATION

7. The proposed reason for refusal is unsuitable access. Officers have considered the definition of access to mean access in its widest sense and

have reviewed access on the basis of the wider highway network, junctions surrounding the site and the on-site layout.

8. Reference has been made in both comments received and debate at the meeting to a report produced on behalf of the Council by Mr White entitled "Highway and Transportation Assessment of Residential Site Options for the Ryde Area Action Plan". The purpose of this report was to consider the sites for the Ryde area presented within the SHLAA, to establish whether, in highway terms these were deliverable and therefore potentially suitable for allocation. It confirms that transport assessments produced in support of planning applications would need to have regard for the most up-to-date analysis of local junctions and link capacities.
9. The report considers the impact on the development of a number of potential sites on the off-site highway infrastructure within the Ryde area and concludes that it is unlikely that the sites considered therein (including the application site), would give rise to a need for significant traffic capacity improvements. The emphasis of the report is placed on the need to invest in walking, cycling and public transport infrastructure. The application responds to this by proposing contributions towards improvement to sustainable transport and public realm, in the vicinity of the site.

Wider highway network

10. Following the advice of Island Roads, the applicant considered the impacts on the wider highway network, including traffic onto the Marlborough Road/Great Preston Road/ Bullen Road traffic signal controlled junction and the Marlborough Road roundabout. This junction currently operates at 80% saturation. Following the development it is predicted that this would increase this figure by 1.5%. This equates to an additional 21 vehicles in the AM peak and 28 vehicles in the PM peak. It should be noted that a signalised junction running at less than 90% saturation is not normally deemed to have a congestion problem and therefore the proposed development is not considered to have an unacceptable impact on this junction. These figures have been ratified against the Solent Transport Evidence Base Report.
11. There are currently no known capacity issues at the Marlborough Road roundabout. It is therefore considered to have significant capacity to accommodate the likely traffic generation associated with the proposed development.
12. Having due regard to the above figures and evidence Officers do not consider a refusal on the grounds of any transport impact on the wider network would be sustainable.

Immediate junctions design

13. The Transport Assessment submitted with the application also considered the junctions of Hope Road and Circular Road with Marlborough Road.
14. Taking into consideration the speed of traffic along Marlborough Road, the visibility splays of both of these junctions would need to have a 'Y' distance of

43m. The ‘Y’ distance in technical terms is the distance someone in the driving seat of the car would be expected to be able to see up and down the road they would be entering.

15. Further to a site inspection by the highways officer, these junctions are deemed to comply with design standards in respect of visibility. Given the clear advice of the highway authority, Officers do not consider a refusal on the grounds of any transport impact on the immediate junctions would be sustainable.
16. The layout of the junctions would need to provide adequate space to enable vehicles to enter, exit in forward gear. Due to on road parking within these roads double yellow lines are currently positioned at the junction to provide stacking capacity. The layout of the junctions is therefore considered to be acceptable and would therefore not form a sustainable reason for refusal.

Immediate junction capacity

17. Hope Road and Circular Road provide two potential access points to the site entrance. These roads are both conventional priority junctions with Marlborough road and are bordered by footways with an average width of 1.3m.
18. Potential trip rates for the proposed development have been derived using the existing rates associated with Hope Road and Circular Road, which serve 72 dwellings (including Westridge Farm, the rear of a couple of properties fronting Marlborough Road and Grace Church). This method is considered to be more accurate than using the TRICS data.
19. A growth factor has been applied into these rates, to estimate network flows five years after the proposed development is constructed, should it receive consent. The traffic distribution at each junction reflects the existing percentage split. Traffic generation figures are considered in respect of the AM and PM peaks in the network, as these represent a worse-case scenario. These peaks are established through monitoring flows through junctions. The following traffic movements are the combined flows for Hope Road and Circular Road now, associated with the development and post development:

Base Traffic Flows	
AM peak hour (08:15 – 09:15)	Entering 19 vehicles / exiting 24 vehicles
PM peak hour (15:45 – 16:45)	Entering 31 vehicles / exiting 18 vehicles
AM 12 hour flows (07:00 – 19:00)	Entering 237 vehicles / exiting 238 vehicles
Traffic Movements Associated with Development	
AM peak hour (08:15 – 09:15)	Entering 21 vehicles / exiting 27 vehicles
PM peak hour (15:45 – 16:45)	Entering 34 vehicles / exiting 21 vehicles
AM 12 hour flows (07:00 – 19:00)	Entering 261 vehicles / exiting 263 vehicles

Development Traffic + Base Traffic Flows 2021 (including for national growth rate)	
AM peak hour (08:15 – 09:15)	Entering 40 vehicles / exiting 51 vehicles
PM peak hour (15:45 – 16:45)	Entering 65 vehicles / exiting 39 vehicles
AM 12 hour flows (07:00 – 19:00)	Entering 498 vehicles / exiting 501 vehicles

20. When evaluating the above data consideration has been given to the design standards as set out in both Manual for Streets / Manual for Streets 2 and Volume 6 Section 2 Part 6 TD 42/95 of Design Manual for Roads & Bridges (DRMB) which advises that simple junctions are appropriate for most minor junctions on single carriageway roads. In the instance of new rural junctions they should only be used when the design flows in the minor road is not expected to exceed about 300 vehicles 2-way Annual Average Daily Traffic (AADT), and that on the major road is not expected to exceed 13,000 vehicles 2-way AADT.
21. At existing rural, and at urban junctions upgrading should be considered where the minor road flows exceed 500 vehicles 2-way AADT, a right turning accident problem is evident, or where vehicles waiting on the major road to turn right inhibit the through flow and create a hazard. It should be noted that the standards state that upgraded should be considered not provided.
22. In this instance the flows would exceed 500 vehicles 2-way AADT and therefore the need for a right turn lane should be considered, taking into account the geometry and characteristics of Marlborough Road, the good forward visibility; current accident data and the capacity of Circular Road / Hope Road / Marlborough Road junctions.
23. In instances where junction improvements should be considered it is also necessary to have due regard to the implication of such improvements and whether they would be more hazardous. For example; if a right hand turn lane were to be incorporated onto the network this would widen the road and make the crossing distance greater while also speeding up traffic, by removing the standing vehicles in the highway.
24. The highway authority do not deem the highway in this location to be unsafe or inappropriate, taking into account the characteristics of Marlborough Road, the number of junctions accessing onto it, the presence of traffic lights at its termination (in the area known as Westridge Cross) and the presence of parked car and bus stops.;
25. As reference has been made by others to the "White" report it is worth noting that this considered the potential yield of the site for 200 properties (acknowledging that the site boundary was greater the access was proposed to be via the same routes). This number is significantly higher than the 80 units being proposed by this application. The report outlined that; "in combination, Hope Road and Circular Road, and their respective junctions with Marlborough Road, offer considerable reserve capacity to serve further development. A further 200 units would take the peak morning flows to just under one car every 30 seconds, spread across the two junctions."

26. The above referenced report goes on to outline that “While the existing Hope Road/Circular Road layout is below that standards at which new development serving around 269 dwellings would normally be designed, it is likely that there is sufficient capacity with no demonstrable safety dis-benefits. Furthermore, the pelican crossing on A3055 [*Marlborough Road*] between the two junctions offers enhanced opportunities for turning in and out of the junction at call-up times”.
27. In light of this the junction capacity and the level of traffic on Marlborough Road, being 7,000 AADT, well below the 13,000 AADT, the use of the existing junctions is considered to be appropriate for the context of the site and the immediate highway network.

Road widths

28. Hope Road from its junction with Marlborough Road through to the eastern boundary of No.14 is adopted highway. This adopted section of Hope Road provides an average width of 5.6m accommodating the passage of private and service vehicles. It is noted that existing on-street parking practices reduce the useable width down to an average of 3.8m. The un-adopted section of Hope Road has an average width of 3.9m. Taking into consideration the level of on-road parking, the recommended conditions include for a requirement to enter into a Traffic Regulation Order (TRO) for the provision of a section of double yellow lines on the adopted section of the road, to allow for a passing bay. This would mitigate for the potential conflict created by the increase traffic generation resulting from the proposed development. The width of Hope Road is therefore not considered to be a sustainable reason for refusal.
29. Circular Road has an average width of 4.8m, as with Hope Road current on-road parking practices limit it predominantly to single carriageway width. However, unlike Hope Road, due to its alignment Circular Road is covered by double yellow lines along the full extent of the northern/western side of the road with two passing bays being available on the eastern side. The existing parking restrictions on this road therefore allow for the safe passing of vehicles. The width of Circular Road is therefore not considered to be a sustainable reason for refusal.

Road construction / condition

30. Hope Road and Circular Road themselves are in a poor state of repair in places. Island Roads have confirmed that the structural integrity of the road network has no bearing on the recommendations returned by them in respect of the planning application. If there is deemed to be an existing problem with the condition of the road, this is the responsibility of the Local Highway Authority (Island Roads on their behalf) to maintain the highway network to the appropriate standard.
31. It should be noted that the currently planned network upgrade works indicate that carriageway works to Circular Road and Hope Road and footway works to Circular Road are scheduled for 2017/18. Although this is indicative of planned schemes and therefore subject to change, it serves to demonstrate

that improvements are acknowledged to be necessary and planned for the coming year.

32. Concerns were raised during the determination of the application, and comments made during the committee meeting, with regards to structural integrity of the road / pavement, due to dropped crossing being refused as road drainage in Hope Road and Circular Road is currently too shallow to enable kerb work. Officers have looked into this matter in more detail and can confirm that they have not found any evidence to substantiate this claim with Island Roads showing no applications having been received since the commencement of the PFI contract for the installation of vehicle crossing within Hope Road.
33. The construction / condition of the immediate road network is not considered to represent a sustainable reason for refusal.

Site access and layout

34. The proposed site access has been configured to give priority to traffic entering and leaving the new development from the end of the adopted section of Hope Road. The existing unadopted section of road serving the remaining properties on Hope Road and Westridge Farm would become a junction off this new road.
35. In order to; accommodate the existing forms of traffic associated with Westridge Farm, take into consideration users of the un-adopted section of Hope Road and to provide a suitable link through to the proposed onsite road layout, a proportion of the un-adopted section of Hope Road from its junction with the adopted highway is detailed to be realigned and widened with the creation of a kerbed buildout.
36. The proposed layout is supported by a series of swept path analysis drawings. On review of these and as a result of a site inspection it is evident that, to ensure the proposed arrangement would ensure that service vehicles to access the farm and provide for an adequate level of forward visibility to those vehicles existing the site double yellow lines would need to be introduced on either side of Hope Road, outside of No. 12 running in a easterly direction into the site.
37. Since the report was considered by the Planning Committee and concerns were raised in the meeting with regards to the ability to undertake a TRO this matter has been given greater consideration. Although it is considered that it would be possible to enter into such an agreement there are questions as to whether this would be enforceable. Therefore, a minor amendment to the design has been presented, which shows the line of the highway set back and layby parking being provided, between the footway and the road. This would remove the potential for vehicles to park in the visibility splays therefore overcoming the need for double yellow lines on the un-adopted section of Hope Road.
38. The new estate roads have been designed to be constructed to an adoptable standard (although would not necessarily be offered for adoption by the

highway authority). The proposed layout provides for minimum carriageway widths of 4.8m and footways widths of 2m, with associated 1m service strips / link path in association with allocated visitor and private parking areas. Provision has also been made for a 3m wide footpath link with the potential for cycle usage as well as turning area to accommodate refuse and emergency service vehicles.

39. The site access and layout is therefore considered to comply with the required design standards and would not form a sustainable reason for refusal.

Car parking

40. The proposal includes for the provision of parking for the each property based on the following:
- 1 bed unit x 1 space
 - 2 bed units x 2 space (minimum)
 - 3 bed units x 2 space (minimum)
 - 4 bed units x 3 spaces (minimum)

Visitor parking is also shown to be provided throughout the site.

41. The application also includes for a 12 space car park to assist with the concerns raised by residents with regards to the current level of on road parking in Hope Road and Circular Road.
42. This level of parking is considered to be more than adequate for the proposed nature and location of the development and is therefore not deemed to represent a sustainable reason for refusal.
43. Research has suggested that while car ownership continues to grow significantly, the growth in car use is decreasing. As a result, there is some evidence of more cars being less used, to the extent that the design and provision of parking is even more important in relation to safety, neighbourliness and aesthetic quality in new streets.
44. Car travel from dwellings is influenced by the cost and availability of parking at travel destinations, with employment being particularly significant in the weekday peak periods. In light of this the proposed level of car parking, being higher than average, may encourage people to consider utilising more sustainable forms of transport at peak times.

Conclusions

45. Since the consideration of this item the applicant has commissioned a further transport assessment by a different highway engineer. This technical note reaches the same conclusions as the originally submitted transport assessment and Island Roads, in that the application is acceptable in respect of all highway matters.
46. Officers have re-evaluated the issue, taking the term 'access' in its widest sense and continue to conclude that the proposed access would not be

'unsuitable' and the proposed development should therefore be approved, as per the original recommendation.

47. However, should Members still deem the access to be 'unsuitable', when having due regard to the comments contained above, any proposed reason for refusal would need to outline what element(s) of the access are 'unsuitable' and what demonstrable harm would result.

FINANCIAL / BUDGET IMPLICATIONS

48. The financial and budget implications relate to Members resolution to refuse the application, either in part or in totality.
49. In the event an Appeal were to proceed against any refusal, the Council would incur additional costs as a result of having to seek to defend the refusal. These costs would relate to both Officer time through preparation of papers etc, and additional external support as may be required.
50. In addition, at Appeal, the Council could be subject to a costs award if the Inspector considers that the Council has acted unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or waste expense in the appeals process. Costs applications may relate to events before the appeal or other proceedings, and behaviour and actions at the time of the planning determination may be taken into consideration by the Inspector in determining whether to award costs or not.
51. Unreasonable behavior in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal)
52. A costs award may be made in full or in part depending on the reason given for awarding the costs. A full award of appeal costs means the party's whole costs for the statutory process, including the preparation of the appeal statement and supporting documentation. It also includes the expense of making the costs application.
53. In deciding whether to award costs, the planning inspectorate will have regard to the planning practice guidance. This says that

"Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- (a) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- (b) failure to produce evidence to substantiate each reason for refusal on appeal*
- (c) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

- (d) *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*

54. In order to mitigate the risk of a costs award it is essential that the Council must be able to demonstrate that the proposal would be contrary to the policies contained within the Development Plan and substantiate each and every reason(s) for refusal with evidence. If the Council cannot fulfil this requirement for each or all the reasons given then, it is likely that costs would be awarded at Appeal. The relatively recent Inspectors decision to award costs against the Council at Blanchards stated:

“The web-based Planning Practice Guidance lists preventing or delaying development which should clearly be permitted, having regard to its accordance with the Development Plan, national policy and any other material considerations; and making vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis, as areas where a Local Planning Authority may be exposed to an award of costs.”

55. For information, the Blanchard’s appeal was a Written Representation appeal and resulted in an award of costs of circa £22k. It should be noted that this does not include any of the Councils costs. Comparatively, the costs award in association with the Ashley Road Public Inquiry (the route likely to be taken in relation to this application due to the current appeal), exceeded £100k not including any of the Council’s costs of defending the appeal.

LEGAL IMPLICATIONS

56. The key legal implication is whether the Planning Committee is making a decision in accordance with the requirements of the Planning Acts.
57. The Local Planning Authority have a statutory duty to make decisions in accordance with the development plan unless there are material considerations that indicate otherwise.
58. Additionally, where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 14 of the National Planning Policy Framework.
59. Should Members fail to apply the above duties, there is a risk of a decision being allowed at Appeal and a costs award being made.
60. Officers reaffirm that the Island Plan represents the adopted up-to-date development plan and Members must use the policies in the manner that they are written. To seek to utilise the policies in another fashion (for example reversing a supportive policy to appear negative) would not follow this requirement and would not represent a lawful decision-making process

RISK MANAGEMENT

61. Officers have re-evaluated the resolution made by Members on the 24th January, and do not consider that the reason for refusal presented represents a sustainable, evidenced or substantiated ground for refusal. As such, officers consider that there is a high risk that an appeal would be allowed, and that an award of costs would be likely.

OPTIONS

62. The options are set out as follows:
- 1) Resolve to continue with the existing resolution made on the 24th January:-
To issue a refusal on the grounds of unsuitable access

Or

 - 2) To resolve to grant planning permission as recommended at para 8.1 of the report presented to the Planning Committee on the 24th January, which can be viewed [here](#).
 - 3) To resolve an alternative motion, which if for refusal would provide clear, policy based or material, and sustainable reasons for refusal.

CONCLUSION

63. Officers have reviewed the resolution made by Members on the 24th January, and in particular have re-evaluated the reason for refusal that was provided, namely 'unsuitable access'.
64. As set out within this report, Officers do not consider that the reason for refusal would be sustainable due to a lack of evidence upon which a refusal could be demonstrated and sustained.
65. The proposals must be considered against the policies of the development plan. Officers maintain that the scheme is compliant with the Island Plan Core Strategy. Failure to provide specific evidence to substantiate a recommendation contrary to technical guidance would represent a significant risk to the Council in regard to the ability to defend any subsequent appeal and a potential award of costs on grounds relating to unreasonable behaviour.
66. Officers therefore conclude that the proposed resolution made on the 24th January should be re-evaluated, and Members should resolve to approve the application in accordance with the published report presented on the 24th January.

RECOMMENDATION

67. Option 2, to resolve to grant planning permission as recommended at para 8.1 of the report presented to the Planning Committee on the 24th January, which can be viewed [here](#).

WENDY PERERA
HEAD OF PLACE