

02 Reference Number: 21/00684/FUL

Description of application: Demolition of barns and storage buildings; proposed construction of 16 dwellings and use of existing holiday bungalow as permanent dwelling; access road, garaging/car ports, parking and associated landscaping

Site Address: Land at Lee Farm, Main Road, Wellow

Applicant: Mr and Mrs Steve Cowley

This application is recommended for: Conditional approval subject to the completion of a S.106 Legal Agreement

REASON FOR COMMITTEE CONSIDERATION

The planning application was previously referred to the Planning Committee for consideration on 1st March 2022. The original report can be viewed by following this link:

[21-00684-FUL Lee Farm Committee report](#)

The Planning Committee resolved to grant full planning permission for the development subject to conditions and a legal agreement. Since then and while the legal agreement has been negotiated, the applicant has sought to vary one of the terms of the agreement and provide an increased contribution in respect of off-site affordable housing provision. Given that the agreement reflects the resolution of the committee, this report provides members with an update on the proposed changes to the legal agreement and the options available.

This report will not repeat all of the main considerations for the application, as these were set out within the original committee report. Instead, this report focusses on the key areas of difference between the legal agreement supporting the committee's resolution and the approach now proposed by the applicant.

MAIN CONSIDERATIONS

- Planning history and preamble
- Progress and changes to the legal agreement

1. **Evaluation**

Planning history and preamble

1.1 Councillors will be aware that this planning application was considered by the Planning Committee on 1st March 2022, with the committee resolving to approve the development subject to planning conditions and the satisfactory completion of a legal agreement. The legal agreement is required to secure the following measures:

- A financial contribution towards the Bird Aware Solent mitigation strategy
- A requirement to construct or pay for the construction of a 1.75km section of the West Wight Greenway
- A financial contribution towards off-site affordable housing
- Clauses to secure post development appraisals of development costs and if returns exceed predicted values, for excess to be transferred to the Council to be spent on off-site affordable housing provision
- A requirement to install and suitably manage the agreed 'Bio-bubble' waste-water treatment plant
- A requirement to manage additional habitat enhancements for a period of at least 30 years, in order to achieve Biodiversity-Net Gain

1.2 The components of the planning application have not altered since it was considered by the Planning Committee, nor have there been changes to relevant planning policy guidance or the site itself. In addition, no further comments have been received at the time of writing this report and no changes are advised in respect of the recommended planning conditions. Therefore, this report simply seeks to address proposed changes to the legal agreement, which are discussed below.

Progress and changes to the legal agreement

1.3 Since the Planning Committee decision in March officers have instructed the Council's Legal Services Team to draft the required legal agreement to secure the obligations outlined within paragraph 1.1 above. At the same time, the applicant has begun initial marketing with prospective Island developers, in order to deliver the approved housing once the planning consent has been issued.

1.4 As councillors will recall, the planning application was the subject of a viability appraisal due to the absence of on-site affordable housing provision, in lieu of providing the land and the delivery of a 1.75km section of the West Wight Greenway, a Council project to provide a right

of way between Newport and Freshwater utilising sections of the former railway line that previously connected Newport to Freshwater. The viability assessment outlined the standard costs associated with the proposed development, including the section of the Greenway to be constructed by the landowner, and then compared them with the likely returns for the approved housing. This comparison then leaves the residual value of the development (money left over once development costs have been deducted from returns), which in this case was to be used as a financial contribution towards affordable housing provision. The residual value for this development was predicted to be £27,120, which would be secured by the legal agreement.

- 1.5 The legal agreement also included a requirement for a post development appraisal of costs and returns, to ensure that the actual residual value was known, and whether this could result in the contribution being above the predicted value, depending on the costs and returns for the development.
- 1.6 The applicant's viability appraisal stated that the developer profit (a recognised cost of development) would be 17.5% of the Gross Development Value (GDV). However, through marketing the site, the applicant has gained feedback from prospective developers that developer profit within the industry is at minimum 20%, and that commercial lenders also set their criteria at a minimum value of 20%. The Government's Planning Practice Guidance states that developer profit should be between 15 to 20% of GDV, advising that lower returns may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. The Royal Town Planning Institute (RTPI) research paper Planning Risk and Development (2018) advises that 'a normal target would be about 20% of GDV.'
- 1.7 Lee Farm is a brownfield site that would not deliver on site affordable housing (given the committee's resolution), therefore increasing the likelihood of unknown costs associated with site clearance and potential changes to returns, which are based on open market values. In addition, officers are aware that global supply and demand issues, coupled with the increased cost of energy, raw materials and fuel have resulted in unstable costs for building materials.
- 1.8 The Royal Institution of Chartered Surveyors (RICS) advises that timber, steel sections and steel for reinforcement showed annual increases of 79.4%, 60.4% and 80% respectively in September 2021 (prior to the Russian-Ukraine war), also advising that bricks, tiles, cement and other related kilned materials have seen price increases of 24.4% over the same period, therefore increasing costs and risks associated with

development.

- 1.9 The applicants have written to officers explaining that the current requirement for a post development appraisal would undermine the sale of the site, given feedback given by prospective Island developers. The applicant has sought advice from a local estate agency and surveyors practise (Hose, Rhodes, Dickson) who have stated that *'There is a lot of uncertainty out there at the moment, so developers will only be looking at developments which present the least amount of risk. Complexity generally means more hassle and cost.'* The letter continues on to advise that *'Developers have always worked on a minimum of 20% profit and generally they are looking for more, the bigger the site gets and of course the associated risk.'*
- 1.10 The applicants have advised officers that in the interests of delivery and to provide certainty, they wish to provide a fixed financial contribution towards off-site affordable housing, that is not based on the viability report. A contribution of £80,000 towards affordable housing delivery is now proposed, which represents an increase of £52,880 over that previously presented to the committee. The applicants have confirmed that this would be reflected in the sale price for the land to a developer, rather than the residual value of the development thus removing potential viability risks associated with the post-development appraisal, increasing the likelihood for the development to go ahead and allowing the delivery of a substantial section of the West Wight Greenway.
- 1.11 Officers consider that the proposed change to the legal agreement would assist in de-risking the development. As this report notes, there are significant uncertainties regarding the cost of materials for development and given that the site is brownfield, there is the potential for further costs to be encountered, as the site is cleared and constructed. These risks threaten to risk the viability of the project particularly given the continued increase in the cost of raw materials and the related cost of processing them, which is then passed onto the purchaser.
- 1.12 The applicant's proposal to provide a greater contribution towards affordable housing in lieu of the post-development appraisal would give certainty to the Council in terms of the delivery of the development and provision of a significant section of the West Wight Greenway. The amount that has been proposed by the developer would provide a meaningful contribution that could be used by the Council to deliver affordable housing (including social housing) through initiatives such as shared purchase or adaptations to housing stock. Therefore, while the provision of a post-development appraisal would be removed from the legal agreement, officers consider that the proposed increased

contribution, which would considerably increase the level of mitigation in terms of affordable housing provision, would weigh further in favour in terms of the merits of the proposed development.

2. Options

2.1 It is considered that the following options are available to Councillors:

1. To agree the amended heads of terms to the legal agreement, to remove the clause stating: "Clauses to secure post development appraisals of development costs and if returns exceed predicted values, for excess to be transferred to the Council to be spent on off-site affordable housing provision".
2. To keep the terms of the agreement as previously agreed.
3. Reconsider the application in its entirety.

3. Conclusions and Recommendation

3.1 The application is being brought back to committee due to proposed changes to the terms of the legal agreement set out in paragraph 8.1 of the original report and paragraph 1.1 above. It is the opinion of officers that no other material matters have changed to justify any other elements of the permission being reconsidered, so option 3 is not recommended.

3.2 The proposed amendments would secure an on-site contribution towards affordable of £80,000, an increase of £52,880 over that proposed when previously presented to committee. It would also improve the certainty of delivery of housing (on a previously developed site) and a significant section of the West Wight Greenway. Therefore option 1, rather than option 2 is recommended.