

PLANNING COMMITTEE– 14th December 2022

UPDATE ON OUTLINE PLANNING APPLICATION 19/10581: SITE OF FAWLEY POWER STATION, FAWLEY ROAD, FAWLEY, SO45 1TW

Development: Land within the New Forest District Council comprising the demolition of ancillary power station buildings and provision of 1,380 new homes, 95,300 square metres of new commercial, civic and employment space (Use Classes A1, A2, A3, A4, B1, B2, B8, C1, C3, D1 and D2), enlargement of the dock and creation of a canal within part of the turbine hall basement, refurbishment of the remainder of the turbine hall basement to create up to 2,100 space car park, surface car parking, a boat stack, public open space, Suitable Alternative Natural Greenspace, primary access road through the site, flood defences/sea wall, raising site level, hard and soft landscaping, associated infrastructure and engineering works (Outline Application with details only of Access) (AMENDED PLANS RESUBMISSION)

Applicant: Fawley Waterside Ltd.

Agent: Deloitte Real Estate

1. RECOMMENDATIONS

1.1 That the committee note the content of the report.

2. INTRODUCTION

2.1 Members will recall that this significant outline planning application was considered at a special Planning Committee in July 2020.

2.2 At the July 2020 Committee, the Planning Committee resolved to Delegate Authority to the Chief Planning Officer to grant permission subject to:

- i) The National Park Authority also resolving to approve their application 19/00365;
- ii) The completion of a planning obligation entered into by way of a Section 106 Agreement to secure those matters set out in Section 12 of the report; and in addition to include the provision of the cycleway from the development to Holbury, prior to first occupation;
- iii) The completion of a Landowner Agreement between Hampshire County Council and the applicants in respect of the Marine Management Plan Area;
- iv) The imposition of the conditions set out in the Committee report (with a slightly amended condition 69), and any additional / amended condition deemed necessary by the Chief Planning Officer as a result of continuing Section 106 discussions.

Members also concluded that the proposed cycle infrastructure from the site to Holbury should be in place prior to first occupation and that this be included in the S106 agreement.

3. BACKGROUND

3.1 A significant period of time has elapsed (2 years and 5 months) since the original Committee resolution was passed. It is considered appropriate to provide an update to the Planning Committee before a final decision is issued, which is now expected to be in January 2023.

- 3.2 Accordingly, this report will set out the key actions since July 2020. The report will also consider national and local changes to planning legislation, policy and the site since July 2020, with a view to ensuring that the original resolution remains sound and fit for purpose.

4. POST JULY 2020 COMMITTEE ACTIONS AND CONSIDERATIONS

- 4.1 On 28th July 2020, the National Park Authority resolved to approve their application 19/00365. As such, the first requirement of the July 2020 Committee resolution has been satisfied.
- 4.2 The path to securing a completed Section 106 legal agreement (in respect of those matters set out in Section 12 of the original Committee report) has proved to be long and complicated. This is perhaps not surprising given the scale and complexity of the proposed development, its cross-authority nature, and the different ownership interests. However, the Section 106 legal agreement, whilst not yet completed, is now at a final agreed stage, such that completion is expected to take place during January 2023 if not before. The legal agreement will secure cycle infrastructure from the site to Holbury before first occupation, in line with members' wishes.
- 4.3 A Landowner Agreement between the applicants and Hampshire County Council in respect of the Marine Management Plan Area (which is in the form of a Collaboration Agreement) has been agreed and is awaiting final signature. The signed Collaboration Agreement is intended to be appended to the completed Section 106 legal agreement.
- 4.4 The July 2022 Committee resolution was subject to 69 draft conditions. As noted in the introduction to this report, delegated authority was granted to the Chief Planning Officer to add / amend conditions as deemed necessary as a result of continuing Section 106 discussions. Accordingly, the original draft conditions have been reviewed, and 4 of those conditions are no longer considered necessary, those conditions being Draft Condition 25 (B3053 Crossings), Draft Condition 32 (Implementation of the Stone Stream Wetland), Draft Condition 57 (Tree Planting to Southern Edge of Southern Quarter), and Draft Condition 59 (Nitrates: Nutrient Neutrality). The requirements of these original 4 draft conditions are all now addressed within the Section 106 legal agreement, thereby making the conditions unnecessary.
- 4.5 A number of the other draft conditions have needed some minor rewording. However, a few of the draft conditions have needed more significant amendment to take account of changed circumstances since July 2020, the most significant change being to the original draft condition 62 (Biodiversity Net Gain), which has been reworked to align with specific obligations within the draft Section 106 legal agreement.
- 4.6 A complete revised list of draft conditions (65 in total) is attached for information purposes as an Appendix to this report. This schedule of conditions has been informally agreed in writing by the applicant's agent.

5. POST JULY 2020 REVIEW

- 5.1 Due to the length of time that has elapsed since the July 2020 Committee, Officers have carried out a review of changes to legislation, policy and the site, with a view to making sure that the original Committee resolution is still sound. Relevant legislative changes, policy updates and site changes are therefore considered below.

A. Updates to the National Planning Policy Framework

A revision to the NPPF was published in July 2021. This new version has placed an increased emphasis on design, particularly in terms of achieving beautiful places, providing tree lined streets, responding to design guides and codes, and delivering sustainable development.

With its very strong design ethos, it is considered that the proposed Fawley Waterside development is consistent with the new NPPF. The application is accompanied by a detailed design code that will ensure that Fawley Waterside is a beautiful and sustainable place. Tree lined streets will be a key feature of the new settlement (notably the main access road serving the development and the Urban Forest).

B. National Design Guide

The new National Design Guide was published in January 2021. It sets out how one recognises well-designed places and outlines the government's priorities for well-designed places in the form of 10 characteristics.

It is considered that the proposed Fawley Waterside development is consistent with the National Design Guide. Through adherence to the submitted Design Code and Design and Access Statement, the proposed development would be a well-designed place that embraces the 10 characteristics of well-designed places.

C. Updates to Planning Practice Guidance in respect of Flood Risk and Coastal Change

New guidance was issued in August 2022, which includes new guidance on how surface water flood risk should be considered and addressed, as well as additional advice on SUDS, the sequential and exception tests, and taking an integrated approach to flood risk management.

The applicant's Flood Risk Assessment and Surface Water Drainage Strategy are still considered to be fit for purpose in the light of the new guidance. The original broad conclusions on flood risk and surface water drainage as set out in the July 2020 Committee report are still considered to be sound and appropriate. The conditions of the Planning Permission and the obligations within the Section 106 legal agreement will ensure that the development is safe from a flood risk perspective. More detailed consideration of surface water drainage proposals will still need to be considered through the conditions of the outline planning permission.

D. Environment Act 2021

The Environment Act was passed in November 2021. Under the Act, new development needs to ensure that there is at least a 10% increase in biodiversity. Biodiversity Net Gain must be guaranteed for at least 30 years through landscape / ecological management plans.

The need to achieve Biodiversity Net Gain had already been addressed by the applicants and is being secured through conditions and the Section 106 legal agreement. There is therefore no conflict with the requirements of the Environment Act.

E. Mitigation for Recreational Impacts on New Forest Sites - Supplementary Planning Document

This SPD was adopted in May 2021. It replaced the Council's previous 2014 Mitigation Strategy.

It is considered that the Fawley Waterside development is consistent with the new SPD, noting that the SANG obligations in the Section 106 legal agreement have been drawn up in the light of the new SPD.

F. Parking Standards - Supplementary Planning Document

This SPD was adopted in April 2022. It replaces a previous SPD from 2012 and is designed to ensure consistency with current national policy. It includes additional/amended guidance on the size of car parking spaces and the provision of parking spaces for electric vehicles.

The Design Code addresses the issue of electric vehicle charging, and the requirement was previously addressed through a draft planning condition. The need to deliver electric charging points is now also picked up within amendments to the Building Regulations. The applicant has reviewed their Parking Strategy in the light of the new SPD and has provided a response to confirm their view that the SPD does not materially change the assumptions that were made in the original planning application, a conclusion which is accepted by officers. The implications of this new SPD for this application are minor, and detailed parking layouts and numbers of spaces for different vehicle types will ultimately still need to be determined at reserved matters stage.

G. Air Quality Assessments in New Development - Supplementary Planning Document

This SPD was adopted in June 2022. The SPD explains how development plan policies are to be applied in respect of air quality, and it sets out an approach to the air quality impact of development schemes.

The outline application was accompanied by an Environmental Statement, which included a detailed Air Quality Assessment. It is considered that the proposed development is consistent with this new SPD. More detailed assessments will be carried out at reserved matters stage.

H. Waste Management Facilities in new residential development – Technical Guidance Note

This Guidance Note was prepared in 2021-2 and replaces a previous 2007 SPD. The Note sets out the requirements for waste collection storage for new residential development. It seeks to ensure that the need for waste segregation, recycling and collection is taken into account in the design and layout of developments by providing sufficient and suitable waste storage areas for each property.

The submitted Design Code includes a section on refuse storage and collection, and makes it clear that appropriate bin storage areas will be provided in line with the Council's standards. The Design Code sets out acceptable principles. Detailed designs for refuse storage can ultimately be approved through reserved matters applications.

I. Town and Country Planning (Use Classes) (amendment) (England) Regulations 2020

There have been significant changes to the Use Classes Order (which defines Use Classes) since July 2020.

However, the regulations make it clear that any planning application submitted before 1st September 2020 should be determined by reference to the old Use Classes Order rather than the more recent amendments. Therefore, the Use Class references within the original Committee report and draft conditions remain relevant and do not require updating.

J. Amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015

This has been the subject of various changes since July 2020. In the light of these changes the draft condition removing permitted development rights (originally draft condition 43) has been updated to reflect some of the more recent permitted changes.

K. Updated Natural England Guidance on Nutrients

Since July 2020, Natural England have updated their guidance on how a nutrient budget should be prepared and calculated.

As a result of the most recent guidance that was issued in March 2022, it has been necessary for the applicants to submit an updated strategy for reaching nutrient neutrality, with an amended report being submitted to the Local Planning Authority in June 2022. The original strategy was able to conclude that 149% of the nitrogen that would be generated by the development would be removed / offset. The amended strategy (which proposes the same key mitigation measures) demonstrates that 133% of the nitrogen that would be generated by the development would be removed / offset, and that nutrient neutrality is capable of being achieved at all times.

Having regard to the updated guidance and the amended nutrient strategy, a written addendum to the original Appropriate Assessment has been completed, which maintains the original conclusion that the development would not have an adverse impact on the integrity of designated European nature conservation sites, taking into account the specific mitigation measures that are to be secured through the Section 106 legal agreement.

L. Changes to Site Context

Since July 2020, there have been significant changes to the site context as a result of the ongoing demolition of the former power station buildings (pursuant to Demolition Prior Notification application 19/10131). The most significant power station structures, including the turbine hall, boiler house and chimney have now been demolished, leaving a more open site than existed in July 2020.

However, these changes were fully anticipated at the time the application was considered by Committee in July 2020, and they do not materially affect the Local Planning Authority's assessment of the proposed development. The former status of this site as a power station remains a relevant consideration when considering the visual impact of the proposed development.

M. Conclusion on additional post July 2020 considerations

It is considered that the report to Committee in July 2020 and the associated recommendation remain appropriate and policy compliant, having regard to subsequent changes to legislation and policy at both a national and local level since July 2020.

6. CONCLUSIONS

- 6.1 Once the Section 106 legal agreement is completed, the Executive Head of Planning, Regeneration and the Economy can proceed to grant planning permission for the proposed development subject to the amended set of conditions attached to this report.

7. APPENDICES

Appendix A: Amended Schedule of Conditions

27 July 2020 Committee Report can be found here:

<https://democracy.newforest.gov.uk/documents/s15385/Report.pdf>

For further information contact:

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Background Papers:

None