

COPYTHORNE PARISH COUNCIL MEETING – TUESDAY JUNE 11TH 2024

Item 10 - Discussion regarding a response to a letter from residents to the NFNPA relating to planning application 22/00498; along with consideration of potential issues for future planning applications.

(NOTE: This item was previously listed as item 11 at the May 14th 2024 Council Meeting but deferred due to the lack of a Quorum. Since then, a reply has been sent to the residents by Steve Avery (NFNPA Executive Director, Strategy and Planning). A copy of that reply is attached)

BACKGROUND

At the Parish Council meeting on 9th April 2024 a copy of a letter dated 31st March 2024, signed by a number of residents and sent to the New Forest National Park Authority (“NFNPA”), was handed over. A copy of the letter, previously shared with all councillors, is attached to this report (with signatures redacted).

The letter listed the resident's complaints regarding the way the NFNPA dealt with planning application 22/00498. The resident handing over the copy letter expressed their concerns and requested that the Parish Council consider writing a letter of complaint to the Planning Authority.

As the temporary chair of the meeting I, in responding to the resident, advised that a decision on the request could not be made at the meeting and that I would ask that an item be added to the agenda for the next meeting to discuss the matter.

ACTIONS REQUIRED

1. Discuss the residents request and agree a course of action
2. Consider the issues arising from the concerns raised within the letter on how the Parish Council deals with future planning applications.

Councillor Jackie Rhodes
30th April 2024

For Names and Addresses
please see below

31st March 2024

The Information and Data Protection Officer,
New Forest National Park Authority,
Lymington Town Hall,
Avenue Road,
Lymington.
SO41 9ZG

Dear Information and Data Protection Officer,

We the undersigned are writing to formally complain about the way the New Forest National Park Authority Planning Department (NFNPA) has dealt with Planning Application 22/00498. We believe that the way the whole matter of 22/00498 has been handled, falls far short of what is expected of the NFNPA's usual high standards and amounts to maladministration.

We submit that the NFNPA failed to provide the Planning Committee with all the relevant information that was available, or inform them that critical information was still missing from key consultees. Furthermore, by using out of date information, making misleading statements in the Case Officer's reports and by not allowing sufficient time for emerging errors/mistakes to be properly considered by the Planning Committee members and local residents, the NFNPA deliberately distorted the picture in favour of the applicant. Evidence of these major shortfalls can be found by referring to letters from consultees, actions by the NFNPA and by looking at the Case Officer's reports given to Planning Committee members before the Planning Committee meetings on 26th September 2023 and 16th January 2024, respectively. To support this, included but not limited to, are the following examples.

Firstly, we refer to correspondence from key consultees.

We are aware that Natural England asked for additional information from the English Rural Housing Association, hereafter, the developer, to be provided in their letter dated 16th August 2022. We cannot find any evidence that this information was ever provided. Natural England also suggested that the Landscape Officer be consulted, we believe this did not take place. The NFNPA Case Officer said that a report from Natural England would be presented to the Planning Committee on 26th September 2023, this also did not happen.

The NFNPA Trees Officer, in their letter dated 12th September 2022, asked for additional information from the developer on the effect that the proposed new roadway and associated pathway would have on a protected tree in New Inn Road, before making a decision on supporting or objecting to the application. We cannot find any evidence that this additional information was ever provided.

The New Forest District Council Housing Officer, in their letter dated 26th August 2022, said that consideration should be given by the NFNPA to confirm if any of the applicants on the housing list

could actually afford to pay the affordable housing rent, in what is known to be a high rentable area. We do not believe that this was ever done.

A rebuttal letter from the developer's flooding advisor (GRA), dated 26th September 2023, was circulated, by hand, to Committee Members by the NFNPA just before the commencement of the debate on 22/00498 at the 26th September 2023 Planning Meeting. When questioned at the time by Cllr. Johnson of Copythorne Parish Council about its content and whether copies were to be provided to her and Cllr. Tripp of New Forest District Council, the NFNPA stated that its contents were not pertinent to the debate. Having subsequently seen a copy of the letter, this clearly was not true. It raises several procedural questions and also raises issues about how information is provided by the Planning Department to Planning Committee members, District Councillors, the Parish Council and members of the local community.

We refer to your e-mail to Copythorne Parish Council, dated 11th January 2024. It is clear that the three Drainage Strategy drawings referred to in your e-mail are substantially different. There are two P6 versions dated 26th September 2023 and 8th January 2024 and subsequently a P7 version dated 11th January 2024. All of which clearly show differences in the proposed drainage scheme. Before they responded to your Case Officer, it remains unclear which of the two P6 drawings were commented on by Hampshire County Council Flood and Water Management Team in their December 2023 letter. They do not appear to have ever had the opportunity to comment on version P7. In any case, it is completely unacceptable to post the latest P7 revision drawing 3-working-days before the Planning Committee was due to sit. Your assertion in your e-mail that the NFNPA had all the information it needed to make a determination, is clearly not true.

We now refer to the Case Officer's report to the Planning Committee members before the 26th September 2023 meeting.

Paragraph 8.9 – when attempting to make the case for meeting Policy SP28 (Rural exception sites) mentions the findings of a "Housing Needs Survey". This survey was conducted 10 years ago, in 2014 and is, therefore, completely out of date. It was not mentioned that the survey was done on behalf of Hampshire Alliance for Rural Affordable Housing by Action Hampshire, so it cannot be judged as an independent report. The Case Officer, in the same paragraph, also mentions the site not having a detrimental impact on existing adjoining residential housing, without offering any evidence for this statement.

Paragraph 8.10 – attempts to make the case for affordable housing in Copythorne, by saying that the planned affordable housing in adjoining parishes would give priority to people with a local connection in that parish, in the first instance, followed by Copythorne. Conversely, paragraph 8.12 says priority would be given to people with a local connection to Copythorne, followed by adjoining parishes. It is clear that adjoining parishes been included in the numbers used to make the case for affordable housing in Copythorne at the same time, without referring to the fact that the Copythorne affordable housing numbers have already been included in making the case for the already approved Wharton Lane, Ashurst development. A clear case of "double accounting".

Paragraph 8.15 states that the proposal is considered to satisfy all the requirements of Policy SP28 (Rural exception sites), whereas as we have demonstrated previously, this is clearly not true.

Paragraph 8.16 states that the proposed development is not significantly different from the houses in the surrounding roads and would not appear incongruous. There are no blocks of flats in any of the surrounding roads in Bartley, so how this development could not be considered to be incongruous is not understood.

We turn to the Case Officer's report to the Planning Committee members before the 16th January 2024 planning meeting.

In paragraph 8.4, the drainage ditch referred to in the Case Officer's Report, does not, as stated, fall within the application site. The site drawing clearly shows it is outside the site boundary and is located in the next field.

The above examples of relevant information pertaining to the application being omitted, along with inaccurate and misleading information provided by the NFNPA, demonstrate conclusively that the Planning Committee members were not made aware of all the facts, when they were asked to deliberate on 22/00498 on 26th September 2023 and on 16th January 2024. Accordingly, we request that the Case Officer, having obtained the missing information, removes the inaccuracies and misleading statements, re-submits the reports to Planning Committee members and then with members in possession of all the facts, that 22/00498 is brought back before the Planning Committee to allow it to reconsider its previous decision.

Yours sincerely,

Signed:-



Email only to: (Redacted)

Our ref: C24-001
16 May 2024

Dear (Redacted)

Your Stage 2 Complaint re: 22/00498 New Inn Road, Bartley

Thank you for your email sent on 12 April 2024 and the attached letter of complaint sent on behalf of several local residents, in relation to the above matter. As set out in our acknowledgement to you, we have handled your complaint under Stage 2 of our Complaints Process. More information can be found on our website at the following link: [Making a complaint - New Forest National Park Authority \(newforestnpa.gov.uk\)](https://newforestnpa.gov.uk/making-a-complaint)

Your complaint can be summarised as follows:

- The Authority's handling of planning application 22/00498 fell below expected standards and amounts to maladministration;
- The Authority failed to provide the Planning Committee with all the relevant information, including correspondence from key consultees;
- The Authority relied on out-of-date information;
- The reports to the Planning Committee contained misleading statements; and
- The Authority "deliberately distorted the picture in favour of the applicant."

In support of your case you have provided a number of examples and I have commented on these in more detail below.

Correspondence/consultee comments

Natural England in their consultee response dated 15 August 2022 identified that the application could have potential significant effects on the New Forest and Solent SPA, SAC, Ramsar sites and the New Forest SSSI and that further information was required to determine the significance of these impacts and the scope for mitigation. This further information was to be provided in an 'Appropriate Assessment' (to be carried out by the New Forest National Park Authority as the 'Competent Authority'), and consideration of the recreational impacts and the method of mitigation. An Appropriate Assessment was undertaken by the Authority and sent to Natural

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England (NE) and although it was anticipated that NE's response would be received in time for the Committee meeting on 26 September 2023, no response was received. This does not prevent the application from being heard at Committee, and for clarification, NE were not asking the applicant to provide any additional information. The Appropriate Assessment undertaken by the Authority as the Competent Authority concluded that whilst Appropriate Assessment was required in relation to particular impacts, appropriate mitigation methods which could reasonably be controlled via condition would satisfy the Habitats Regulations Assessment (HRA) and resulted in there being no objection to the proposed development in respect of the HRA. The relevant conditions are nos. 8 and 15.

The Landscape Officer was consulted, as per the list of consultees on the website, however wished to provide no comment. This is noted at paragraph 5 of the Committee Report.

In his response dated 12 September 2022, the Tree Officer supported the application 'overall' subject to further information but then later confirmed (verbally) that a condition would be sufficient to provide the necessary safeguards. The relevant conditions are nos. 2 and 14. This was reported verbally at committee by the Officer.

In respect of New Forest District Council's Housing Officer's consultation response dated 26 August 2022 she does not, as asserted, suggest that the Authority confirm if any of the applicants on the housing list would be able to afford to pay the rent set. The comment made and what I believe you are referring to is in fact, as follows: *"In a high rental value area consideration will need to be given to ensuring the affordable dwellings are genuinely affordable and would suggest that consideration is given to aligning rental values to reflect Local Housing Allowance for the area."*

Condition 3 controls the tenure and use of the dwellings in accordance with Annex 2 of the National Planning Policy Framework (NPPF) which in respect of affordable housing for rent is defined as:

"(a) Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)".

This will also be controlled by the section 106 legal agreement.

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In respect of the rebuttal letter submitted by the applicant dated 25 September 2023; this was provided in response to the comments that had been made by members of the public and sought to provide clarification, for the purposes of the Committee meeting. It is not unusual to receive late correspondence from applicants and/or third parties just prior to a Committee meeting. I recall a very full debate on the proposed arrangements for surface water drainage. In the event, a decision on the application was ultimately deferred by the Committee “in order for further information to be submitted in regard to flooding and surface water drainage”. Condition 17 controls the construction of the drainage system.

The matter of the drawing versions (P6 and P7) was clarified verbally at the subsequent Committee meeting on 16 January 2024. I wrote to the Parish Council a few days before hand (on 12 January) to clarify the situation, commenting inter alia:

“I appreciate that there has been some confusion over the relevant drainage plan, largely as a result of us trying to make it clearer by asking the applicant to renumber the latest ‘P6’ plan. I can see how this looks on the Citizen Portal but I want to assure you that the P7 drainage plan (attached) is in essence the same plan that was sent to the HCC as the LLFA and on which they submitted their comments last December.”

Contents of Committee Reports

The evidence base for the New Forest National Park Local Plan identified a significant affordable housing need arising from the communities within the National Park (amounting to over 70 net new affordable dwellings per annum). The delivery of affordable housing on rural exception sites can play a key role in meeting these identified needs. No affordable dwellings for local people have been delivered in the parish of Copythorne since the National Park was designated in 2005. The last housing development of any scale in the Parish was at Rockram Close, which was granted permission in 2004 before the National Park was designated.

The September report correctly states that local affordable housing needs arising in Copythorne will not be addressed by development in neighbouring areas such as the housing site allocations at Ashurst and Lyndhurst, where the new affordable housing to be provided will have a local connection to those parishes in the first instance. The legal agreement for the Whartons Lane development in Ashurst for example, states that local people in affordable housing need with a connection to the parish of Ashurst & Colbury will be eligible; followed by people in immediately adjacent parishes in the National Park – namely Denny Lodge and Netley Marsh; and finally the rest of the National Park. Copythorne parish is not immediately adjacent to the parish of Ashurst & Colbury and therefore there is no guarantee anyone from the parish of Copythorne will be eligible for an affordable dwelling at Whartons Lane. There has been no double counting.

Similarly the strategic housing site allocation on land north of Totton in the NFDC

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Local Plan (2020) is not designed to cater for local affordable housing needs in Copythorne. The affordable housing provided in this development will not be covered by local connections criteria and will instead be available for people in priority housing need across the whole of the New Forest district. This is properly referenced within paragraph 8.10 of the September report.

Consideration of the application against Policy SP28 is set out in paragraphs 8.10 - 8.14 of the September report and summarised at paragraph 8.15. They need to be read together.

In respect to the comments made in relation to paragraph 8.16 of the September report; this paragraph relates to plot sizes, densities, and the layout and grain of development across the surrounding area. The use of the word 'significantly' relates to plot sizes specifically.

There is an incorrect reference to the ditch "falling within the application site" at paragraph 8.4 of the January report whereas in fact it lies just 'outside the red line'. This is clearly an error but I do not believe it had any bearing on the final decision. I say this because plans showing the proposed drainage layout and its relationship to the adjacent ditch were displayed at the meeting. Whether the ditch is within or outside the red line does not affect the consideration of the drainage scheme. Ordinary watercourse consent would need to be obtained in order for the development to connect to it and importantly, drainage at the site is controlled by conditions 17 and 18 (as set out in the January report).

Conclusion

I fully acknowledge that you have a different view of the planning merits of the application and you set out your reasons very clearly at the Committee meetings and in earlier representations. These were all taken into account by both officers and the Planning Committee prior to making a decision. The Committee reports address all the relevant points and I am satisfied that the Authority followed its standard procedures and adopted planning policies in the consideration and determination of the application. National policy and our own local plan make provision for 'rural exception sites' and I can find no evidence to support your claim that there has been a deliberate distortion in favour of the applicant.

I hope that the explanation has reassured you of our correct handling of the matter. However, if you are not satisfied with the handling of your complaint you may write to Alison Barnes, Chief Executive, and ask for a review of your complaint. You will receive a response within 20 working days of your request.

Yours sincerely,

Steve Avery Executive Director Strategy and Planning

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