

## **OFFICER REPORT FOR COMMITTEE**

**DATE: 18/03/2020**

**P/20/0007/FP**

**FAREHAM BOROUGH COUNCIL**

**FAREHAM NORTH WARD**

**AGENT: DAVID LOCK ASSOCIATES**

PROVISION OF ACCESS ROAD LINKING FUNTLEY HILL TO 70 & 72 KILN ROAD AND 1 & 2 DEAN FARM COTTAGES INCLUDING ASSOCIATED SITE CLEARANCE, GROUND REMODELLING AND ENGINEERING OPERATIONS.

### ***Report By***

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### **1.0 *Introduction***

The existing access road to 70 & 72 Kiln Road and 1 & 2 Dean Farm Cottages (via Kneller Court Lane) is required to be closed to vehicular traffic to enable the construction of the new Junction 10 slip roads as proposed within the outline application for Welborne (P/17/0266/OA). The proposed works would have been secured by details pursuant to a planning condition on the Welborne decision notice had that permission been issued. However whilst the s106 negotiations continue with the Welborne application, these works have been submitted as a separate application to enable the new access works to be carried out within the optimum seasonal period to prevent impact on potential ecological receptors and for the existing access to be able to be closed (Kneller Court Lane) as soon as is necessary after the determination of the outline application P/17/0266/OA to enable the junction 10 works to start.

### **2.0 *Site Description***

- 2.1 The site is currently an arable field. There is an existing right of way (Fareham Footpath 89) which runs parallel to the M27 from Funtley Hill to the A32. The footpath comprises an unsurfaced footpath.
- 2.2 The site is generally flat and at a lower level to the M27 which runs east to west to the south of the application site. At the western end of the site is a boundary hedge to Funtley Hill. A new opening is proposed in this hedge with a simple give way junction proposed onto the Highway.
- 2.3 At the eastern end, the site is currently enclosed by a post and rail fence and hedging which will also need to be removed in part to connect to the northern most part of Kneller Court Lane outside the properties 70 and 72 Kiln Road.

### **3.0 *Description of Proposal***

- 3.1 The proposed access will be to the north of the M27, east of Funtley and south of the employment buildings within Dean Farm Estate. The access road will approximately follow the line of the existing footpath that links Kneller Court with Funtley Hill. The proposed access onto Funtley Hill is south of an existing farm gate to allow for adequate visibility onto Funtley Hill.
- 3.2 The proposed access is approximately 440m long and 4m wide with 2 passing places. The road will be constructed from tarmac but will be a private road and will not form part of the adopted highway. To facilitate the creation of the access a limited amount of ground remodelling is also required.

#### **4.0 Policies**

- 4.1 The following policies apply to this application:

##### **Adopted Fareham Borough Core Strategy**

CS5: Transport Strategy and Infrastructure;

##### **Local Plan Part 3: The Welborne Plan**

WEL1 Sustainable Development

WEL 3 Allocation of Land

WEL 4 Comprehensive Development

WEL8 Protection and Enhancement of the Historic Environment

WEL23 Transport Principles for Welborne

WEL24 Strategic Road Access

WEL25 Local Road Transport and Access

WEL28 Walking and Cycling

WEL29 On-site Green Infrastructure

WEL30 Avoiding and Mitigating the Impact on Internationally Protected Sites and Off-Site Green Infrastructure

WEL31 Conserving and Enhancing Biodiversity

WEL32 Strategic Green Corridors and Connections

WEL33 Structural Landscaping

WEL34 Detailed Landscaping

WEL39 Flooding and Sustainable Drainage Systems

##### **Other Documents:**

Welborne Design Guidance: Supplementary Planning Document January 2016

#### **5.0 Relevant Planning History**

- 5.1 The following planning history is relevant:

P/17/0266/OA

A new community of up to 6000 dwellings (C3 and C2, including a care home of use class C2) together with a district centre (comprising up to 2,800m<sup>2</sup> food store retail (A1), up to 2,419m<sup>2</sup> of non-food retail (A1) and up to 2,571m<sup>2</sup> of other non-convenience/comparison retail use (A1 - A5)); a village centre (comprising up to 400m<sup>2</sup> food store retail (A1), up to 1,081m<sup>2</sup> of non-food retail (A1), a public house (up to 390m<sup>2</sup> A4 use) and up to 339m<sup>2</sup> of other non-convenience/comparison retail use (A1 - A5)); up to 30,000m<sup>2</sup> of commercial and employment space (B1); up to 35,000m<sup>2</sup> of general industrial use (B2); up to 40,000m<sup>2</sup> of warehousing space (B8); a hotel (up to 1,030m<sup>2</sup> C1 use); up to 2,480m<sup>2</sup> of community uses (D1 and D2); up to 2,200m<sup>2</sup> ancillary nursery (D1), health centre (D1) and veterinary services (D1); retention of Dean Farmhouse; a secondary school, 3 primary schools; pre-schools; green infrastructure including formal and informal open and amenity space; retention of some existing hedgerows, grassland, woodland areas, allotments, wildlife corridors; all supporting infrastructure; household waste recycling centre; requisite sub-stations; sustainable drainage systems including ponds and water courses; a remodelled M27 J10 including noise barrier(s); works to the A32 including the creation of three highway junctions and new crossing(s); distributor roads (accommodating a Bus Rapid Transit network) and connections to the surrounding cycleway and pedestrian network; car parking to support enhanced use of Dashwood; ground remodelling; any necessary demolition; with all matters reserved for future determination with the exception of the works to M27 J10 and the three highway junctions and related works to the A32.

**COMMITTEE  
RESOLUTION TO  
GRANT PERMISSION**

**16/10/19**

P/18/1192/FP

Management of wildlife habitat, including habitat clearance and habitat creation, planting and structural landscaping which will include movement, re-profiling and reinstatement of excavated topsoil.

**6.0 Representations**

6.1 24 representations have been received of which 2 are in support of the application and 22 object raising the following issues:

- Potential for road to provide access into the wider development at Welborne
- Impact on highway safety
- Impact on ecology
- Loss of hedgerow
- Impact on countryside
- Impact on Funtley
- Impact on ability to use right of way
- Will the road be available for use by horseriders?
- The site is Common land and should not be able to be used for a road
- Impact on settlement buffer with Funtley
- Impact on headlights on no. 44 Funtley Hill

**7.0 Consultations**

EXTERNAL

**Hampshire County Council (Highway Authority)**

7.1 No objection, subject to conditions.

**Hampshire County Council (Archaeology)**

7.2 No objection subject to conditions.

**Hampshire County Council (Countryside Service)**

7.3 No objection, subject to conditions.

INTERNAL

**Ecology**

7.7 No objection, subject to conditions.

**Trees**

7.8 No objection

## **8.0 Planning Considerations**

8.1 The following matters represent the key material planning considerations which would need to be assessed to determine the suitability of the development proposal. The key issues comprise:

- a) Principle of Development;
- b) Relationship with the Outline Application for Welborne;
- c) Highway Safety;
- d) Impact on the Character of the Area;
- e) Impact on the Right of Way;
- f) Trees;
- g) Ecology;
- h) Heritage
- i) Amenity
- j) Summary

### **a) Principle of Development**

8.2 The site falls within the area of land allocated for Strategic Development known as Welborne by a site specific plan: Local Plan Part 3 (The Welborne Plan).

8.3 Policy WEL3 of The Welborne Plan allocates the land for the new community to accommodate approximately 6,000 dwellings, 20 hectares of employment land, along with new education and retail facilities, associated infrastructure and open space.

8.4 Policy WEL4 of The Welborne Plan requires the development of Welborne to be taken forward on a comprehensive basis and improvements to the M27 Junction 10 are required by policy WEL24. The junction 10 works to be an “all moves” junction are an integral part of delivering Welborne and ensuring the development is provided in a comprehensive manner.

8.5 The proposed new access is required in order to facilitate the delivery of junction 10 as per policy WEL24 and in turn will provide for the wider development of Welborne. As such the development is considered to be acceptable in principle subject to satisfying the requirements of the policies summarised above.

### **b) Relationship with the Outline Application for Welborne**

8.6 The proposed access road is required to provide access to properties currently accessed via Kiln Road as their existing access will be closed to

facilitate the alterations to Junction 10 required as part of the outline application for development at Welborne and as described above.

- 8.7 The proposed access road would run through an area of landscaping proposed within the outline application as Suitable Alternative Natural Greenspace (SANG.) Whilst within the SANG the proposed alignment of the access road is broadly in accordance with that proposed within the illustrative material for the SANG design submitted as part of the outline application.
- 8.8 The proposed access road was also indicatively shown within the approved application (P/18/1192/FP) for site clearance and the creation of wildlife habitat associated with works required for improvements to Junction 10.
- 8.9 The resolution to grant permission for the outline application for development at Welborne includes a condition (number 59) requiring details of the replacement access arrangements for these dwellings to be submitted to and approved by the Local Planning Authority prior to the closing of the existing access via Kneller Court Lane. This proposal is an application for permission for a replacement access as would be required by condition 59. If permission is granted there would no longer be a requirement for condition 59 to be included in the decision notice for the outline application.

### **c) Highway Safety**

- 8.10 Policy CS5 states that development will be permitted which does not adversely affect the safety and operation of the strategic and local road network, public transport operations or pedestrian and cycle routes.
- 8.11 The proposed access road would only provide access to a small number of residential properties and would therefore not result in a high volume of vehicular movements per day.
- 8.12 Representations have been received which raise concerns about the impact of the proposed access road on the safety of Funtley Hill, in particular the lack of visibility. The application proposes to remove a section of hedgerow to improve visibility onto Funtley Hill. (The proposed replacement hedgerow would be set back further from the road so that visibility is not compromised.) The Highway Authority has assessed the proposed access road and confirmed that the visibility splays would provide appropriate visibility and that the access road would not have an adverse effect on the safety and operation of Funtley Hill in accordance with Policy CS5.
- 8.13 Representations have also been received raising concerns about the potential for the proposed access road to provide access to the wider development at

Welborne in the future which would result in a greater number of vehicles exiting onto Funtley Hill. The proposed access road is simply a replacement of an existing access and has been designed to provide access to a small number of existing houses. The proposed access road is located on land identified as a site of Suitable Alternative Natural Greenspace (SANG) as part of the wider development of Welborne and has therefore been designed to have a limited visual impact on the character of the area.

#### **d) Impact on the Character of the Area**

- 8.14 The proposed access road would be single carriageway (with passing places) to minimise the impact on the landscape. The access road would be visible from the south from the elevated motorway but would be viewed adjacent to the row of trees and hedgerow to the immediate north which would soften the visual impact on the character of the area.
- 8.15 Representations have been received which raise concerns about the location of the proposed access road within the buffer between Funtley and Welborne. Policy WEL5 requires development proposals to respect and maintain the physical and visual separation of Welborne and its adjoining settlements (in this case Funtley) to protect the individual character and identity of each of these settlements. Policy WEL5 also states that development within the buffers will only be permitted where: it is either consistent with and contributes to the green infrastructure role of the area or is necessary to deliver improvements to the strategic road network.
- 8.16 The proposed access road would be informal in nature and is therefore considered to both respect and maintain the physical and visual separation of Welborne and Funtley and to be consistent with the role of this area as SANG and, as set out above, the illustrative SANG masterplan with the Welborne outline application included an access road in this location. The proposed access and visibility splays requires the removal of a small section of hedgerow. The application proposes a replacement hedgerow (approximately 30m in length) that will also ensure there are no unnecessary gaps in the soft landscaping.
- 8.17 The final detailed design of the soft landscaping within the Welborne SANG, outside of the current application site and adjacent to the proposed access road, will be considered within future reserved matter applications after the determination of the application for the wider development of Welborne.
- 8.18 Overall the impact of the proposed access road on the character of the area which is identified as future SANG and as a buffer between Funtley and

Welborne is considered to be acceptable and in accordance with policy requirements.

#### **e) Impact on the Right of Way**

- 8.19 Policy WEL28 states that proposals for development at Welborne will be permitted only where they provide for a network of strategic pedestrian routes.
- 8.20 The existing right of way (Fareham Footpath 89) comprises a narrow, unsurfaced route which is often extremely muddy during the winter and times of heavy rainfall. The footpath provides an east to west link between Funtley Hill and the A32.
- 8.21 The proposed access road follows the same approximate alignment as the majority of the right of way. The nature of part of Footpath 89 would change as a result of the proposed development in that the route would be hard surfaced and would provide vehicular access, however this is not dissimilar to the treatment of the existing access to these four dwellings along Kneller Court Lane which is also a designated public right of way. The number of cars expected to use the access road is likely to be so low that it's considered that pedestrians' enjoyment of the right of way would not be negatively impacted. The hard surfacing of the access road is also considered to be advantageous as it will enable the section of the right of way along which it aligns to be used throughout the year and during times of heavy rainfall.
- 8.22 The Rights of Way Officer raised no objection to the proposal subject to the incorporation of conditions requiring the provision of a sign warning drivers of the presence of walkers and to ensure the Right of Way is not obstructed.
- 8.23 The proposed access road would result in part of Footpath 89 having a wider and more durable surface which would be used throughout the year and during times of heavy rainfall. The access road would not be used by high volumes of traffic and would therefore remain safe for pedestrian users. Overall the proposed access road would not have an adverse impact on Footpath 89 and would be in accordance with Policy WEL28 which requires a network of strategic pedestrian routes.

#### **f) Trees**

- 8.24 The proposed access road would run parallel to the trees and hedgerow on the site therefore the majority of the trees and hedgerow are proposed to be retained. The application is supported by an arboricultural method statement that contains appropriate measures to ensure the safety of the retained trees. There are a small number of low quality (category C) trees of various species



and a small section of blackthorn hedgerow however that are proposed to be removed to enable the creation of the proposed access. A number of trees are also proposed to be crown lifted. A 30m length of replacement hedgerow is proposed to mitigate for the loss of the trees and hedgerow. The size and species of hedgerow can be secured by condition.

- 8.25 The Council's Arborist has raised no objection to the proposed removal of trees and hedgerow. The proposed removal of a section of hedgerow and some trees is considered to be acceptable given their limited quality. The proposed replacement hedgerow is also considered to be appropriate mitigation that will prevent the loss of trees from having a visual impact on the character of the area.
- 8.26 The proposed tree protection measures together with the replacement hedgerow can be secured by condition.

#### **g) Ecology**

- 8.27 Policy WEL30 requires initial applications for development at Welborne to be supported by a full ecological appraisal to identify and address potential impacts on designated sites, priority habitats and protected species both within and immediately adjacent to the site boundary.
- 8.28 In terms of habitat, the area within the application site contains semi-improved grassland, scrub, ruderal vegetation and hedgerows. The proposed access road would result in the removal of areas of semi-improved grassland, a small section of hedge and scrub together with a small number of low quality trees as described above. The proposed new hedgerow of at least 30m in length as described previously would also compensate for potential loss of habitat as well as providing landscape mitigation.
- 8.29 The ecological assessment states that the area is of minimal value in terms of providing habitat for badgers and that the effect would be 'negligible' and 'not significant'. Notwithstanding the negligible effect, the application proposes a precautionary approach with mitigation measures (such as fencing around areas where badgers are to be excluded) recommended.
- 8.30 The ecological assessment also states that the site contains slow worms and grass snakes and that there is suitable habitat within the site for great crested newts although the ecological report concludes that it is highly unlikely that there are any great crested newts within the site. Notwithstanding the ecological assessment's conclusion, a precautionary approach is proposed with measures designed to avoid the risk of harm to the identified protected species. The Council's Ecologist has confirmed that the proposed measures

are appropriate. The measures contained within the ecological assessment can be secured by condition.

8.31 The ecological assessment also confirms that there are dormice within the site. Dormice receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (commonly referred to as the Habitats Regulations). Where developments affect European protected species (EPS), permission can be granted unless:

- the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations, and
- the development is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

Taking each part in turn:

- *Is the development likely to result in a breach of the EU Directive?*

8.32 The proposed hedgerow will provide replacement habitat, however the proposed development has the potential to kill/injure dormice and would therefore result in a breach of the EU Directive.

- *Is the development unlikely to be licensed?*

8.33 An EPS licence can only be granted if the development proposal is able to meet three tests:

- 1. the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))*
- 2. there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and*
- 3. the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).*

8.34 Test no. 1: The proposed development is required to facilitate the wider development of Welborne which will contribute significantly towards both the council's 5 year housing land supply which is of significant social importance

(particularly given the council's current lack of supply) and to the longer term delivery of housing. Test no. 1 can therefore be satisfied.

- 8.35 Test no. 2: The Natural England guidance on licence applications indicates that the second test must account for the 'do nothing' scenario. This would leave the Footpath in its existing condition next to an arable field with the potential for disturbance from agricultural practices. An alternative access could be provided to the north of the residential dwellings however it could potentially prejudice the delivery of the employment area given that the detailed layout is not yet known. It is therefore considered that there are no satisfactory alternatives and Test no. 2 can be satisfied.
- 8.36 Test no. 3: In order to assess the development against the third test, sufficient details must be available to show how killing / injury of dormice will be avoided and how the loss of habitat for dormice will be compensated. A strategy has been provided that includes methods to be followed during the development to avoid the killing or injuring of dormice, together with the provision of alternative habitat (in the form of a 30m strip of replacement hedgerow.)
- 8.37 The Council's Ecologist supports the principles of the strategy and is confident that the favourable conservation status of the species as required by the third test would be met in respect of dormice, therefore test no. 3 can also be satisfied and an EPS licence from Natural England is likely to be granted.
- 8.38 The ecological impact assessment submitted with the application demonstrates that the loss of habitat (primarily the 10m strip of hedgerow) can be mitigated (by the provision of a 30m strip of replacement hedgerow) and that protected species can be protected from injury during the construction process. The proposed development is therefore considered to satisfy the requirements of Policy WEL30 and an EPS license is anticipated to be provided by Natural England.

#### **h) Heritage**

- 8.39 Policy WEL8 requires development proposals at Welborne to conserve the site's heritage assets in a manner appropriate to their significance and for areas to be assessed for archaeological and historic environment potential prior to commencement.
- 8.40 The location of the access road has the potential to impact archaeological remains of local importance therefore the application proposes to archaeologically strip the area with any findings mapped and sampled in accordance with a Written Scheme of Investigation to be secured by condition. The proposed submission of a Written Scheme of Investigation will ensure that

the area is surveyed in an appropriate manner with the findings recorded and is considered to be in accordance with the requirements of Policy WEL8.

### **i) Amenity**

- 8.41 The proposed access road would be visible from residential properties to the west of the site on Funtley Hill, however the access road will be used by a small number of cars such that any disturbance from noise or light pollution would not be significantly adverse.

### **j) Summary**

- 8.42 The proposal is required to facilitate the wider, comprehensive development of Welborne and is considered to be in accordance with the policies summarised earlier in this report.

## **9.0 Recommendation**

- 9.1 GRANT PLANNING PERMISSION subject to conditions:

1. The development hereby permitted shall be begun before the expiry of three years from the date of this decision.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

2. The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:
  - Location plan Drawing no. WEL-PBF-FH-XX-DR-CH-00003 Rev S4-P05
  - Site plan Drawing no. WEL-PBF-FH-XX-DR-CH-00004 Rev S4-P04
  - Proposed layout and long section Drawing no. WEL-PBF-FH-XX-DR-CH-00002 Rev P03
  - Engineering layout Drawing no. 164.5002.101

REASON: To avoid any doubt over what has been permitted.

3. The access road hereby permitted shall not be brought into use for vehicular traffic until visibility splays of 2.4 metres by 43 metres at the junction with the existing highway have been provided in accordance with the approved details. The visibility splays shall thereafter be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety.

4. The access road hereby permitted shall not be brought into use for vehicular traffic until a detailed landscaping scheme identifying the species, planting sizes, planting distances, density, numbers and provisions for future maintenance of all new planting has been submitted to and approved by the Local Planning Authority in writing.

REASON: To enhance biodiversity and in the interests of the visual amenities of the locality.

5. The landscaping scheme, submitted under condition 4, shall be implemented and completed within the first planting season following the first use of the road by cars or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed scheme. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

6. No development shall take place (including site clearance and ground preparation) until the tree and hedgerow protection measures submitted within the Arboricultural Method Statement (produced by James Fuller Arboriculture dated December 2019) have been fully implemented. The approved measures shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site.

REASON: To ensure that the trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability during the construction period.

7. Any tree and hedgerow protective measures installed shall be maintained and retained for the full duration of the works or until such time as may be agreed in writing by the Local Planning Authority. No activities, material storage, or placement of site huts or other equipment what-so-ever shall take place within the fencing without the prior written approval of the Local Planning Authority.

REASON: In order to retain established landscaping on the site in the interest of the visual amenities of the area.

8. All service routes, drain runs, soakaways or excavations in connection with the development shall remain wholly outside the tree and hedgerow protective area unless otherwise agreed in writing with the Local Planning Authority.

REASON: In order to retain established landscaping on the site in the interest of the visual amenities of the area

9. No development shall take place until a Written Scheme of Investigation setting out the methodology for the archaeological monitoring of the groundworks and the public dissemination of any results has been submitted to and approved in writing by the Local Planning Authority. The details contained within the approved Written Scheme of Investigation shall be fully implemented during the construction of the development.

REASON: To ensure appropriate recording of archaeological remains.

10. The road hereby permitted shall not be brought into use for vehicular traffic until details of signage warning drivers of the presence of pedestrians on the Footpath has been submitted to and approved in writing by the Local Planning Authority. The signage shall be provided in accordance with the approved details prior to the road being brought into use by vehicular traffic and shall be retained thereafter.

REASON: To ensure the safety of pedestrians using the Public Right of Way.

11. The development hereby permitted shall be carried out strictly in accordance with the mitigation measures contained within the ecological impact assessment dated December 2019 and produced by Lindsay Carrington Ecological Services.

REASON: To ensure that protected species are not harmed and that habitat is enhanced as a result of the proposed development.

### **Informatives**

Notwithstanding the results of the ecological survey submitted with this application special care must still be taken not to disturb wild animals and plants protected by the Wildlife and Countryside Act 1981 (as amended). This includes birds and bats that nest or roost in trees. Should specimens of any protected species be discovered during building operations you should contact Natural England for further advice - 0300 060 3900 [www.naturalengland.org.uk](http://www.naturalengland.org.uk)

A Highway Agreement is required to allow surface changes to the Public Right of Way.

Temporary Closure Orders should be applied for at least 6 weeks prior to the commencement of works. Details of how to apply can be found at <https://www.hants.gov.uk/landplanningandenvironment/rightsofway/temporaryclosure>  
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It is an offence under the Countryside and Rights of Way Act 2000 to obstruct a Public Right of Way.

#### **11.0 Background Papers**

[P/20/0007/FP] – refer to other applications in the planning history section too

