Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DISC/24/0061
Wellcross Farm Five Oaks Road Slinfold West Sussex

DESCRIPTION:
Approval of details reserved by condition 19 c) ONLY (Contamination) ALL PHASES to application DC/19/1897 (141 units of accommodation (C2 Use) and community facilities including restaurant, cafe, shop, hairdressers, spa and consultation/treatment suite, with access, infrastructure, open space, landscaping and associated works (all matters reserved except for access).

DETAILED DESCRIPTION:
Planning Application DC/19/1897 was allowed at appeal on 27 May 2021. This permitted an outline application for up to 141 units of accommodation (C2 Use) and community facilities including restaurant, cafe, shop, hairdressers, spa and clinical consultation / treatment suite, with access, infrastructure, open space, landscaping and associated works (all matters reserved except for access).

The development scheme permitted at outline is subject to a three-stage phased implementation. Phase 1 relates to the village centre and village apartments to the northeast of the site; Phase 2 is village apartments to the southwest of the site; Phase 3 is village apartments to the southeast of the site and the east bank of the River Adur.

Condition 19 parts a) and b) ONLY has been discharged under separate application (DISC/23/0132 refers). Approval is now sought for details pursuant to condition 19 part c) (contamination) to all phases (1-3 inclusive).

The submitted details comprise a Remediation Method Statement REV 03 by Ridge and Partners LLP (submitted in response to the Council's Environmental Health officer request).

RELEVANT PLANNING HISTORY:

DC/19/1897	Outline application for the erection of a continuing care retirement community of up to 141 units of accommodation (C2 Use) and community facilities including restaurant, cafe, shop, hairdressers, spa and clinical consultation / treatment suite, with access, infrastructure, open space, landscaping and associated works (all matters reserved except for access)	Allowed At appeal 27 May 2021
DC/22/1503	Reserved Matters application pursuant to condition 5 of outline planning permission DC/19/1897 for the provision of Phase 1 of Land at Wellcross Farm to provide a Continuing Care Retirement Community with 47 units of accommodation (C2), communal facilities and new ancillary buildings with access, infrastructure, open space, landscaping and associated works including an onsite borehole water supply.	Permitted 20-11-2023
DISC/23/0132	Approval of details reserved by conditions 10 (Natural England Licence), 13 (archaeological trial trenching),19 (contamination) parts a) and b) ONLY and 29 (dormouse mitigation) for ALL phases/whole	Permitted 08-12-2023

	development to approved application DC/19/1897 (continuing care retirement community of 141 units of accommodation (C2 Use) and community facilities (all matters reserved except for access) as amended by Non-material Applications (Refs DC/22/1387 Condition 10 and DC/22/1388 Condition 13).	
DC/24/0205	Reserved matters application pursuant to condition 5 of outline planning permission DC/19/1897 for the provision of phases 2 and 3 of Land at Wellcross Farm to provide a continuing care retirement community with 94 units of accommodation (C2), with access, infrastructure, open space, landscaping and associated works including an onsite borehole water supply.	Permitted 26-07-2024

REPRESENTATIONS

HDC Environmental Health

(Subsequent) *Environmental Health have reviewed the Ridge and Partners LLP Remediation Method Statement, dated June 2024 and now satisfied that part (c) of condition 19 can be formally discharged. Given the requirement for remedial works, and taking into account the wording for condition 19 which states 'The development shall be completed in accordance with the approved details, unless otherwise agreed to, and approved in writing, by the Local Planning Authority', the applicant should be aware that before the development can be occupied a verification report will need to be submitted to the Local Planning Authority which details and confirms that all of the measures, as detailed in the above-mentioned Remediation Method Statement, have been adhered to and implemented to our satisfaction.*

(Initial) *Reviewed Ridge and Partners LLP Remediation Method Statement, dated March 2024, and have the following comments to make. 1. From reviewing section 6.2 note only area identified for clean cover is 'Area 1' as identified in supplementary ground investigation works. From reviewing original site investigation works made ground soils were however also detected in TP01, TP02, TP05, WS01, WS02, WS03, WS05 and WS10, located outside of this area, with limited sampling of the made ground undertaken at these locations. 2. Given made ground soils appear to extend beyond Area 1 and the lack of testing during the original ground investigation, as detailed above, have concerns with regards to the extent of the proposed clean cover system. 3. Note comment in section 6.2 'A cover system comprising a minimum of 600mm of certified clean sub-soil / topsoil, or greater thickness appropriate to the landscaping requirements, of suitable for use cover material will be placed areas of soft landscaping within the western limits of the Phase 3 boundary as defined by the orange shaded area below within image 6.1, and the full-size plan is included as Appendix 3'. From reviewing the site investigation reports apparent made ground soils in some of the above-mentioned locations were detected at depths greater than 600mm. Placing clean imported soils directly on top of made ground soils is not a system we can support –would therefore be grateful for some clarity in the RMS on the proposed specification where made ground soils are still present below the 600mm cover system. 4. also comment in section 6.2.2 'A sampling frequency of one sample per 50m3 is required, and a minimum of three samples are required per soil import source. For larger amounts of soil from a single source the sampling frequency can be reduced by agreement with Ridge'. So long as any sampling is in accordance with current industry guidance are not against the principle of reduced sampling, this will however also need to be agreed with the LPA – this requirement should be reflected in the RMS. 5. Further to the above it is also not clear when the material will be tested. In our view, which is in line with current industry guidance and best practice, the testing should be undertaken once the material has been imported onto the site and stockpiled i.e. before it has been used to form the cover system. Given the above unfortunately not in a position where can recommend the discharge of condition 19 at this time.*

Other Considerations

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of

the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

Condition 19 (Contamination)

Prior to the commencement of development (of each phase of the development hereby permitted) the following components of a scheme to deal with the risks associated with contamination, including asbestos contamination, of the site shall each be submitted to and approved, in writing, by the local planning authority: a) A preliminary risk assessment for each phase which has identified: • all previous uses • potential contaminants associated with those uses • a conceptual model of the site indicating sources, pathways and receptors • potentially unacceptable risks arising from contamination at the site; b) A site investigation scheme for each phase, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site; c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken within each phase. The development shall be completed in accordance with the approved details, unless otherwise agreed to, and approved in writing, by the Local Planning Authority

The condition as imposed at appeal was compressed without explicit requirement for submission of a verification report to demonstrate the remedial works have been completed.

From the applicant's perspective, their planning agent has confirmed there is no real benefit in getting sign off of the remedial works for future purchasers, as Inspired Villages will continue to hold the freehold of the rest of the site and the future purchasers' conveyancing will be based on each individual unit, so their position is rather have the condition fully discharged and cleared now as verification of the remedial works is not a requirement of the condition.

However, it is important for the Council to sign off the remediation work, and following discussions with the planning agent, it has been agreed to discharge parts a) and b) of condition 19 (DISC/23/0132 refers), with the full discharge issued after post-verification submission/part c). By adoption of this procedure, the details related to parts a) and b) were acceptable pursuant to the condition.

Part C)

Part c) is now submitted for discharge, to all phases (1-3 inclusive). Necessary remedial actions are outlined at Chapter 6 of the Ridge Statement. This includes a 'clean cover' system comprising a minimum of 600mm of certificated clean sub-soil/topsoil to be placed in areas of soft landscaping within the western limits of Phase 3 boundary (area identified in the Ridge Statement). This is recommended due to the contaminants in soil being encountered via sampling/testing within the western extents of the Phase 3 Boundary (untypical of the larger development site). The contamination encountered is thought to originate from historical development of the area, which differs from the predominantly agricultural land use of the larger site.

Following request from the Council's Environmental Protection team, clarification by the Applicant has been given in regards to whether the clean cover system covers a sufficient area (as anthropogenic material ws found at other locations which the potential to be contaminated). Claritifation has been provided (with the extent of clean cover system amended to align with the scheme layout approved at Reserved Matters stage as opposed to at outline, so excluding areas that will be covered by hardstanding and/or buildings. The Council's Environmental Health Officer is now satisfied with the revised Ridge and Partners LLP Remediation Method Statement dated 12-06-2024 (REV C). The submitted details are therefore acceptable regarding all remediation measures to be implemented.

At Chapter 7 of the Ridge Statement is a commitment upon completion of remedial works a Validation Report will be prepared for submission to the Council. The Validation Report provides a complete record of all remediation activities on site and the data collected as identified in the Validation Plan (Section 6.7 of the June 2024 Ridge Report) to support compliance with the agreed remediation objectives and criteria.

It remains fact that condition 19 does not require the submission of a certification (Validation) report that confirms the measures detailed in the Ridge and Partners LLP Remediation Method Statement REV 03 dated 12/06/2024, have been adhered to and implemented to the Council's satisfaction. It is not possible within the limits of the condition imposed to require the applicant to submit a certification (Validation) report. However, an informative can be attached to invite the applicant to submit this prior to occupation of the development.

Water Neutrality Note: Approval has been held in abeyance since the CG Fry High Court decision (30th June 2023). The Council has received updated legal advice on the CG Fry High Court decision (Nov 2023) since its initial advice received in July 2023, in relation to whether pre-commencement conditions are subject to the Habitats Regulation Assessment. The updated Nov 2023 advice is that no further Habitat Regulations Assessment (HRA) is required at conditions discharge stage if a scheme has already undertaken HRA for Water Neutrality prior to being granted. The permitted scheme (DC/19/1897) is already Water Neutral being subject of a favourable HRA AA in January 2022.

Recommendation: Application Permitted

NOTES TO APPLICANT

The Council draws the applicant's attention to Chapter 7 of the Remediation Method Statement REV 03 by Ridge and Partners LLP, which sets out the following commitment:

7. VALIDATION OF REMEDIAL ACTIONS
7.1. Validation Report On completion of remedial works a Validation Report will be prepared for submission to the Statutory Authorities, to allow full discharge of the relevant planning conditions. The Validation Report provides a complete record of all remediation activities on site and the data collected as identified in the Validation Plan (Section 6.7) to support compliance with the agreed remediation objectives and criteria.

The report incorporates all site data and measurements of quality-critical parameters.

The Report should be produced by a qualified environmental specialist (such as Ridge) and should include a final statement that outlines that the site is suitable for the intended use and poses minimal or no risks to identified receptors.

The Council therefore invites the Applicant to submit, before the development is occupied, a certification (Validation) report to the Local Planning Authority which details and confirms that all of the measures as detailed in Ridge and Partners LLP Remediation Method Statement REV 03 dated 12/06/2024, have been adhered to and implemented to the Council's satisfaction.

POSITIVE AND PROACTIVE STATEMENT
Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, to be able to, where possible, grant permission.

Plans list for: DISC/24/0061
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Docs	REMEDIATION METHOD STATEMENT REV 03 12/06/2024 by Ridge June 2024 5016405-RDG-XX-ST-DOC-C00-RMS01.2 Discharge of Condition 19 Attached to Appeal Ref: APP/Z3825/W/20/3262938 LAND AT WELLCROSS FARM, BROADBRIDGE HEATH		24.06.2024

DELEGATED

Case Officer sign/initial Matthew Porter Date: 06-08-2024

Authorising Officer sign/initial J Hawkes Date: 07.08.2024