Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0772
Berkeley Homes Development Site Worthing Road Southwater

DESCRIPTION:
Non-Material Amendment to previously approved application DC/18/1246 (Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of 214 dwellings (including 61 affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590.) Amendment to the description of development to remove the specified number of approved dwellings (214) from the description of development, and to apply a new planning condition which restricts the permitted number of units to the described 214. The new description of development to read: Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of residential dwellings (including affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590.

DETAILED DESCRIPTION:

The amendments sought relate to a procedural process to align the planning approval to the number of units previously as approved (by way of amending the description of the development to remove the number of approved units (214) from the description of development, and to apply a new planning condition which restricts the permitted number of units to the described 214.

Outline planning permission was granted for up to 594 dwellings at Southwater in 2015 under application reference DC/14/0590. Reserved Matters approval has subsequently been granted for phases 1, 2, 3 and 4, totalling 514 units. Phases 1, 2 and 3 have now been completed. Phase 3.2 and Phase 4 was consented under application reference DC/18/1246 for 213 homes, with the following description of development: “Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of 214 dwellings (including 61 affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590.”

Note the description of development erroneously referenced 214 homes, as it did not keep pace with the approved layout which was amended during the application to relate to 213 homes.

The Phase 3.2 and Phase 4 reserved matters application has now been implemented in part with Phase 3.2 completed and largely occupied to relate to 56 of the 213 homes (including 6 affordable homes). No work other than an internal access road to base course have been completed within Phase 4.

Phase 5 relating to 80 dwellings was submitted as a separate full standalone planning application in December 2019 (within the parameters of the outline permission, despite the time period for submission of reserved matters applications being lapsed) and received resolution to grant at committee in September 2020 (DC/19/2464). Before the Section 106 Agreement was signed, Natural England issued their Position Statement (September 2021) requiring all new developments to be water neutral; this also prevented planning condition discharge. The scheme was heard at committee on a further occasion (1st November 2022) to review the water neutrality strategy, again receiving resolution to grant subject to a s106. However, the lack of agreed water neutrality strategy has prevented the

Phase 5 Section 106 Agreement from being signed, and permission being issued to date. The application therefore remains undetermined.

As a result of changing market conditions, Berkeley Homes are proposing some amendments to both Phases 4 and 5 at Broadacres. The total number of units across both phases (4 and 5) is the same, albeit several homes are proposed to move from Phase 4 to Phase 5. As set out above, the description of development for the current reserved matters consent (DC/18/1246) specified the number of dwellings to be consented as 214. As an initial step this application for a non-material amendment is submitted to remove the number of dwellings from the description of development and instead include a condition detailing this.

RELEVANT PLANNING HISTORY:

DC/14/0590	Residential development of up to 540 dwellings and 54 retirement living apartments, associated vehicular, cycle and pedestrian access, drainage and landscape works (Outline)	Permitted 25.06.2015
DC/18/1246	Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of 214 dwellings (including 61 affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590.	Permitted 21/12/2018

RELEVANT PLANNING POLICIES
The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 15 - Strategic Policy: Housing Provision
Policy 16 - Strategic Policy: Meeting Local Housing Needs
Policy SD10 – Strategic Policy: Southwater Strategic Site

Neighbourhood Plan:
Southwater Neighbourhood Plan 2019-20131 (2021)
SNP1 – Core Principles
SNP2 – Proposals for Residential Development

Southwater Parish Design Statement (2011)

Planning Advice Note
Horsham District Council Planning Obligations & Affordable Housing (2007)

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations: None received.

Parish Comments: None received.

Representations: None received.

HUMAN RIGHTS AND EQUALITY:
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

The main consideration of this application is whether the proposed alterations can be considered as non-material amendments to the approved scheme in accordance with Section 96A of the Town and Country Planning Act 1990 (as inserted by S190 of the Planning Act 2008). The discretion rests with the Council to decide to whether the revisions would constitute a non-material amendment to a planning permission, which would not take it outside the scope of the original permission.

The current application seeks permission to amend the description of development of permission DC/18/1246 as follows:

"Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of ~~214~~ residential dwellings (including ~~61~~ affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590."

The inclusion of the unit numbers within the description of development provides the local planning authority with control over the form and quantum of development brought forward and accords with the quantum of development assessed as part of the planning application determination.

To provide the same level of control it is proposed that a new planning condition be imposed which restricts the number of units to the permitted 214. The suggest wording of the condition is as follows:

'The development hereby approved comprises 214 residential dwellings.'

The imposition of a condition would enable Berkeley Homes (Southern) Ltd to submit a subsequent application (under Section 73 of the Town and Country Planning Act (1990)) to amend the condition for the quantum of dwellings and the approved plans to reflect the proposed revisions to the scheme. Through this future Section 73 application, the local planning authority would be able to further assess the impact of any proposed changes to the layout and mix, including engagement with relevant consultees.

The proposed approached put forward by the applicant has been accepted and successfully implemented in a number of other cases by both Berkeley Homes and Turley since the case of Finney and has been the subject of legal advice on behalf of Berkeley Homes confirming the approach proposed in this instance. This includes but is not limited to the following schemes, further details on which can be provided if required: • Worthing Gasworks, Worthing Borough Council, Berkeley Homes – AWDM/1446/23. Application approved 07/12/2023. • Land east of Marshgate Drive, East Hertfordshire District Council, Berkeley Homes – 3/23/1864/NMA. Application approved 07/11/2023.

After this application, the applicant will be submitting a Section.73 application to vary the housing mix and number of homes within Phase 4 and amend the pending Phase 5 application, whilst not exceeding the total number of homes within Southwater that are approved or resolved to be approved under the existing Phase 4 and Phase 5 application.

Summary

The proposed amendments do not involve works which materially affect the principles, content or impacts of the originally approved proposal, as the amendments would simply relocate the mechanisms to control the scale and use of the development within the permission granted. The amendment to condition 1 is therefore considered non-material under Section 96A of the Town and Country Planning Act 1990.

Recommendation: Application Permitted

Conditions:

1 Approved Plans List

2 The development hereby approved shall comprise 214 no. residential dwelling units including 61 affordable dwellings.

Reason: To enable the Local Planning Authority to provide the same level of control over the form and quantum of development as approved to accord with the quantum of development assessed as part of the planning application determination, in accordance with Policies 1, 2, 15, 16 and SD10 of the Horsham District Planning Framework (2015) and SNP1 and SNP2 of the Southwater Neighbourhood Plan (2021)

NOTE TO APPLICANT

Amended Description of Development:

The Applicant is advised of the amended Description of Development, following the grant of this Non-Material Amendment:

Reserved matters approval sought for layout, appearance, landscaping, scale and access for the erection of residential dwellings (including affordable dwellings) with associated access, parking and landscaping works pursuant to phases 3.2 and 4 of outline planning permission DC/14/0590.

The applicant's attention is also drawn to the imposing of planning condition (No. 2) of this Non-Material Amendment, to provide the same level of control over the form and quantum of development as approved to accord with the quantum of development assessed as part of the planning application determination.

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, in order to be able to, where possible, grant permission.

Plans list for: DC/24/0772
(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	COVER LETTER by Turley 10th May 2024 Re: NON-MATERIAL AMENDMENT APPLICATION TO AMEND THE DESCRIPTION OF DEVELOPMENT OF PLANNING PERMISSION DC/18/1246.	NONE	17.05.2024
Plans	Site LOCATION PLAN Phase 3.2 & 4	S8320/SLP/PH3.2 & 4 REV A	17.05.2024

DELEGATED

Case Officer sign/initial Matthew Porter Date: 17-06-2024

Authorising Officer sign/initial Adrian Smith Date: 19/06/2024