

Report to	Planning Committee
Date	10 October 2011
By	Head of Planning
Local Authority	Lewes District Council
Application Numbers	LW/11/0634 and LW/11/0635
Application	<b>Outline application for up to 190 dwellings, 929 sqm of class B1 employment floor space, supported by car parking and open space, with all matters reserved except access (LW/11/0634) and Full application for port access road (first stage), other access roads, 6780 sqm retail foodstore, petrol filling station, parking spaces, service area and associated landscaping (LW/11/0635)</b>
Address	Site 2 Newhaven Eastside The Drove Newhaven East Sussex
Purpose of Report	To consider procedural matters relating to the applications, and to provide comments by the SDNPA as adjoining planning authority to Lewes District Council on the applications.

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**Recommendation: The Committee is recommended to advise Lewes District Council: that:**

- A. That National Park Authority enters into an Agency Agreement with Lewes District Council, substantially in the form set out in Appendix 2 (to follow) in relation to determination of that part of the application that falls within the South Downs National Park Authority.**
- B. That the following response is forwarded to Lewes District Council by the South Downs National Park Authority.**
- 1. The SDNPA is concerned about the loss of employment land, and that Lewes District Council should seek the maximum affordable housing provision for the development.**
  - 2. Providing that:**
    - (i) the landscaping of the site is satisfactory and includes indigenous species throughout the site; and**
    - (ii) the landscaping on the eastern boundary of the site provides for appropriate native species to be used to achieve effective landscaping integration/mitigation benefits, and**
    - (iii) without prejudice to Lewes District Council's determination of the application**

**the SDNPA is satisfied that the proposals are not such that they would be likely to compromise National Park purposes**

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## **1. Introduction**

- 1.1 An outline planning application for residential development and a full application for a food store on the eastern edge of Newhaven have been submitted to Lewes District Council (LDC) for determination. Most of the application sites lie outside the South Downs National Park (SDNP), within the area for which LDC is the Local planning Authority (LPA), but part of the site is within the South Downs National Park, where the South Downs National Park Authority (SDNPA) is the Local Planning Authority, as indicated on the location plan at **Appendix 1.**

- 1.2 This report considers procedural matters relating to determining the applications insofar that they are located within the SDNP. It also considers the applications themselves and provides for the SDNPA as neighbouring authority is to comment on the proposals.

## **2. The Site and Proposal**

- 2.1 The site is a bow shaped area of undeveloped land of approximately 14.1 hectares in the Eastside area of Newhaven on the east side of the Ouse/Newhaven estuary. The character of Eastside is predominantly industrial and it is where the port and associated infrastructure is sited as well as the two railway stations serving Newhaven.
- 2.2 To the north are employment and retail buildings including Drove Retail Park accessed along the A26/A259. This connects with further employment and residential areas following the alignment of Railway Road and Beach Road to the west of the Site and along the eastern boundary of Newhaven Harbour.
- 2.3 The western boundary of the Site adjoins a public right of way (PROWs 3b and 3c) alongside allotments and a recreation ground which extends westward towards residential development on Eastbridge Road.
- 2.4 To the east lies the Ouse Estuary Nature Reserve which has recently been laid out as open space providing for recreation, nature conservation and land drainage. It includes pockets of woodland planting extending along its western and eastern boundaries and open areas of pasture. There are further PROW links extending from the northern and southern areas of the application site into this nature reserve and beyond into the wider SDNP. The A259 forms the eastern boundary of this nature reserve and follows the bottom of the scarp of the chalk ridge within the SDNPA to the north east. On the slopes of this ridge are the residential communities of Mount Pleasant and Rookery Hill which face out over nature reserve with views towards the application site.
- 2.5 The application is in hybrid form and comprises an outline application for 190 dwellings next to the recreation ground and 929 sq metres of B1 (light industrial/office) floor space at the southern end of the site. Adjacent to this is a proposed retail food store (6,780 sq metres) which is the subject of the detailed part of the application together with associated parking (352 spaces), a petrol station, a phase of an access road to the port of Newhaven running down the eastern edge of the application site to serve the food retail store, the B1 uses and the residential development.
- 2.6 It is proposed that the design and layout of the external lighting system would comply with 'dark skies' criteria by limiting the upward lighting component and that all areas of external lighting would be automatically timed.
- 2.7 Landscape proposals include ornamental shrub and tree planting to the site entrance and pedestrian routes along to the store boundaries that would allow the long views out into the surrounding countryside. The overall strategy for the site is to create a 'tidy and functional landscape' with trees along the boundaries for vertical structure and shelter from the winds with ornamental textured plants edged with clipped hedges below for a 'tidy appearance'. More natural planting is proposed along the edges of the eastern boundary adjacent to the Ouse Estuary Nature Reserve in keeping with the existing vegetation and with the aim of increasing biodiversity. Whilst this part of the proposal has not yet been developed in detail the applicant has indicated that the planting will include indigenous species.

## **3. Relevant Policy Context**

- 3.1 National planning policy set out in PPS1 and PPS7 seeks to protect and enhance the quality, character and amenity value of the countryside. PPS9 requires local planning authorities to promote biodiversity.
- 3.2 When the boundary of the South Downs National Park was established the alignment with the Sussex Downs AONB boundary was changed to include the Ouse Estuary Nature Reserve in the light of the Inspector's conclusion that because of publicly accessible wildlife habitats created in this area it would satisfy the natural beauty criteria. It was also seen as a

filter to screen the industrial development at Newhaven Harbour and the land allocated for new business development promoted under Policies NH10 and NH20 of the Lewes Local Plan referred to below in para. 3.5 of this report.

3.3 Part of the application site is within the SDNP boundary. The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their area; and
- To promote opportunities for the public understanding and enjoyment of the special qualities of the area.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the communities within South Downs National Park in pursuit of these purposes. Government policy relating to National Parks set out in PPS7: Sustainable Development in Rural Areas and Circular 20/10 is that they have the highest status of protection in relation to landscape and scenic beauty. Conservation of the natural beauty of the landscape and countryside must, therefore, be given great weight in development control decisions.

3.4 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area in the South East Plan and the Lewes Local Plan.

3.5 The South East Plan was adopted by the Secretary of State on 6th May 2009. The Coalition Government's revocation of the Plan in July 2010 has been found to be unlawful so the document remains part of the development plan at this time but the intention to revoke it could be a material consideration. The following strategic policies are relevant to this application:

- Policy SCT3 which identifies Newhaven Eastside as one of a list of allocated business locations
- Policy SCT4 which requires local planning authorities to give priority to delivering employment development
- Policy C2 which states that the purposes of (NP) designation should be a material consideration in the making of any planning decision that would affect it.
- Policy CC1 which states that the physical and natural environment of the south east is to be conserved and enhanced
- Policy CC6 which requires new development to respect the character and distinctiveness of landscapes and use innovative design to create a sense of place.

3.6 The Lewes Local Plan was adopted on the 31 March 2003. Under the provisions of the Planning and Compulsory Purchase Act (2004) relevant "saved" Local Plan policies are:

- Policy NH10 which allocates the application site for business uses (Use Classes B1 and B8) subject to a range of criteria including a requirement for the provision of a new access road which would also provide access to the adjacent port development
- Policy NH20 which proposes upgrading of the port facilities

#### **4. Relevant Issues and Assessment**

4.1 The SDNPA has two roles in relation to these applications. In respect of the part of the sites that fall within the SDNP the SDNPA is the planning authority, and is therefore the determining authority. For the part of the application site lying outside the SDNPA the SDNPA has a role as consultee as the adjoining planning authority. Conventionally, where a planning application straddles the boundary of Local Planning Authorities, the LPA with the larger site area determines the application on behalf of both authorities. However, this requires the other LPA to authorise it to do so.

##### **The substantive proposals**

4.2 These applications were considered by the SDNPA planning committee at their meeting on 12 September, and the committee had concerns about the substantive content of the

applications, notwithstanding that this relates to the area outside the SDNP, thus limiting these comments to that of a consultee. However, the main concern of the committee was in relation to the landscaping element of the proposals which do lie within the SDNP. There have since been discussions with officers of Lewes District Council about a proposed agency agreement providing for them to determine that part of the applications which lie within the SDNP and to ensure that all landscaping elements controlled by condition within the SDNP are subject to the final approval of the SDNPA should the applications be approved. A draft of the proposed agreement is attached as appendix 2 to this report.

- 4.3 With regard to the substantive elements of the applications, the committee expressed concerns about the loss of employment land, but accepted that any conflict between the retail and housing elements of the proposal and national and development plan policies relating to employment generation and retail impact is a matter for Lewes DC. Whilst the 'out of town' location may encourage use of the private car it would not have a significant impact on the SDNPA as the additional traffic generated would be largely confined to within the town.
- 4.4 Members were also concerned that Lewes District Council negotiated to seek the maximum affordable housing provision to minimise the impact on the SDNP but this is also ultimately a matter for that Council.
- 4.5 The main issue for the SDNPA is therefore the landscape and visual impact. However in making that assessment the existing allocation for industrial development and the policy requirement for a port access road, the first phase of which has been granted planning permission, are important considerations.
- 4.6 The part of the application site which is within the SDNP boundary will form the landscaped edge of the site. It is therefore important that planting is appropriate and reflects the character of this area. Close views and vistas are relatively limited due to the location of the site in relation to main vehicular routes and adjacent industrial developments, but there are long distance views from east and north east of the site on public rights of way on the slopes of the South Downs and elevated residential properties at Mount Pleasant and Rookery Hill. However the site is seen in the context of the existing settlement pattern against the industrial urban edge across the permitted port access road beyond an open space edge containing a boundary of maturing vegetation.
- 4.7 Any views towards the site from the west are limited by intervening built form and seen in the context of an existing settlement which makes it difficult to identify the site itself.
- 4.8 In terms of the lighting the proposed development would be seen in the context of the existing built up area of Newhaven. In addition low lux levels are proposed. Consequently there would only be a very limited impact on 'dark skies'.
- 4.9 Whilst planting of indigenous species is proposed along the eastern boundary there would be views through to the more ornamental form of landscaping within the site. It would therefore be more appropriate if the landscaping within the site reflected that on the eastern boundary. This would also be more likely to enhance biodiversity through additional habitat creation extending corridors for wildlife out to the west from the nature reserve.

#### **Procedural matters**

- 4.10 As outlined in para 4.1 above, it is conventional in cases where applications straddle LPA boundaries for the authority with the larger area to determine the application, and for the other authority to authorise it to do so. This is, in effect, an agency agreement under s101 of the local government act, ie the provisions under which planning services are undertaken for the SDNPA by the constituent councils. However, in this case a bespoke agreement is proposed, as it would not be appropriate to use the current s101 agreement with LDC for this development which otherwise would not be delegated to LDC to determine. It is therefore proposed that the terms of the agency agreement should provide for the SDNPA to determine landscaping matters, and safeguards are proposed to ensure that this control is secured. The proposed wording for the agreement is attached as appendix 2 to this report. Appendix 2 is subject to continuing discussion with LDC and will follow when

discussions are concluded

## **5. Conclusion**

### **The substantive proposals**

5.1 In respect of the substantive elements of the proposals, while there is concern about the loss of employment land and maximisation of affordable housing, it is advised that the SDNPA accepts that these are matters for determination by LDC.

5.2 As:

- i) the site is allocated for development, and
- ii) views of the site from the wider area of the SDNPA are long distance, and
- iii) the development will be seen against the existing industrial urban edge across the permitted port access road,

then providing:

- 1) landscaping of the site is satisfactory and includes indigenous species throughout the site, and
- 2) the landscaping on the eastern boundary of the site provides for appropriate native species to be used to achieve effective landscaping integration/mitigation benefits, and
- 3) without prejudice to LDC's determination of the application

it is advised that the SDNPA is satisfied that the proposals are not such that they would be likely to compromise National Park purposes.

### **Procedural matters**

5.3 Subject to LDC accepting the terms of the agency agreement as in appendix 2 (to follow), or as otherwise amended, it is advised that the SDNPA authorises LDC to determine both proposals in their entirety, including the elements of the proposals within the SDNP .

## **6. Recommendations**

**6.1** It is recommended that the conclusions outlined in section 5 above be confirmed and communicated to Lewes District Council

## **7. Crime and Disorder Implications**

7.1 There are no implications in relation to this consultation on a planning application.

## **8. Human Rights Implications**

7.2 There are no implications in relation to this consultation on a planning application.

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Appendices	Appendix 1: Site location in relation to the South Downs National Park Appendix 2 :Draft content of proposed agency agreement with LDC
SDNPA Consultees	Head of Planning

### **Background Documents**

Application and associated documents ref LW/11/0634 and LW/11/0635

PPS1

PPS7

PPS9

Circular 20/10

Lewes Local Plan 2003

South East Plan (2009)