

		<b>Committee Date: 13.05.2025</b>
<b>Seaton (Seaton )</b>	<b>22/2781/MOUT</b>	<b>Target Date: 24.04.2023</b>
<b>Applicant:</b>	<b>Baker Estates Ltd</b>	
<b>Location:</b>	<b>Land Adjacent To Harepath Road</b>	
<b>Proposal:</b>	<b>Outline planning application (with details of access to be considered and all other matters reserved) for mixed use development comprising of up to 130 dwellings to the east of Harepath Road and the laying out of a new community football pitch, parking and welfare facilities to the west of Harepath Road, formation of accesses on Harepath Road and Colyton Road, public open space and other associated infrastructure.</b>	

**RECOMMENDATION:** The Chair is invited to confirm the exercise of his casting vote.

## EXECUTIVE SUMMARY

The site is located on the northern edge of Seaton and includes land both within and outside of the Built-Up Area Boundary (BUAB), and also within the Green Wedge.

The proposal seeks outline planning permission for up to 130 dwellings, a football pitch and associated parking and welfare facilities on the northern edge of Seaton. Approval was sought for the three proposed vehicular access points with all other matters being reserved for later approval.

On 25 February 2025 the Committee considered this application. During consideration of the item, members voted on a proposal to carry out a site visit. 5 members voted in favour of the proposal, whilst 7 members voted against it and so the motion was unsuccessful. A further proposal was then made to approve the application, subject to a Section 106 Agreement and conditions, including 4 additional conditions, which were then commented upon by the Planning Manager. Members voted on the above proposal to approve the application, subject to a Section 106 Agreement and conditions, including the 4 additional conditions. 6 Members voted in favour of the proposals, whilst 6 members voted against it (including the Chair).

The Council's Planning Solicitor, advised the Chair that he had the casting vote at which stage

he stated that he was going to “recommend refusal” because of “the erosion of the green wedge, (loss of) best and most versatile land, it only provides 25% Affordable Housing, impact on ecology (the effect on bat population) and it’s not in accordance with the emerging local plan”.

The Planning Manager responded to the Chair by providing her views upon the reasons he had set out, which then lead him to say, “you’re telling me that I haven’t got a leg to stand on, aren’t you....” before going on to say “in that case, I think that I’d better withdraw that, which is going to come as a big disappointment to the audience, and accept the officer’s recommendation, since I don’t think I can support the arguments for refusal”.

The Planning Solicitor then asked “Are you (now) confirming that your casting vote is in favour of approval in line with the Cllr’s proposal”. The Chair replied by stating that given the points that had been made by the Planning Manager he thought that he was going to struggle to support any refusal”.

There was then discussion regarding the taking of a further vote, to which concerns were raised. The Planning Solicitor took those concerns on board and advised that the Chair “said that he was minded to use his casting vote to vote against the proposal that was put forward by Cllr Barlow, he’s now changed his mind, he’s using his casting vote then, so we won’t take the vote again, you’re correct that the vote was 6 in favour of the approval... and 6 against... and now he’s changed his casting vote and so it will now be 7 in favour and 5 against.

Since the meeting concerns have been raised regarding the legality of the decision-making both in terms of the advice given and the decision. One of the concerns raised was the officer advice and the extent to which planning officers can direct the Committee. It is established case law that it is the role of the planning officer to set out their professional opinion in such circumstances, provided that they do not misdirect members. In this case officers are satisfied that members were not misdirected and indeed officers could have gone further in explaining why they considered there were not sufficient grounds to refuse the application. There is clear case law which confirms that unless there is some distinct and material defect in the officer’s advice, the court will not interfere. Officers are satisfied that there was no distinct or material defect in the advice in this case.

Whilst the Council considers the proceedings to have been lawfully conducted, it acknowledges that there may have been confusion for some onlookers regarding the vote that was taken. Following the conducting of a review of this matter, the Council is taking the

unusual step to bring this matter back to the Committee for the Chair to clarify the exercise of his casting vote. The reason for taking this step is because the Council wishes to be open and transparent and to ensure that there is no uncertainty with the decision-making process.

As the Committee has already heard the representations in relation to this matter, there will be no further public speaking or representations in relation to this application and the purpose of this item will simply be to confirm the exercise of the Chair's casting vote in an open and transparent manner.

Recommendation: The Chair is invited to confirm the exercise of his casting vote.