



From: Delwyn Jones
Sent: 17 November 2017 14:58
To: Planning.Responses
Subject: RE: Planning Consultation on: AW/314/17/PO

Anita

These are my responses to the consultation dated 30 October for which thanks.

I note Andy Elder – Housing Enabling Officer advises he has “no objection” – to discharge this s106 deed dated 3 September 2014 - though gives no reasons.[his email dated 2 November 2017].

I guess that may be enough to determine the application in favour of granting a deed of discharge. ie the main beneficiary no longer wants or requests the money.

As a Planning Officer you will need to have reasons for a decision and these are the reasons for agreeing with Andy and discharging the s106 deed and not seeking the money:-

1. The s106 deed is dated 3 September 2014. The papers show it was for a development of 2 flats. – certainly for less than 10 dwellings.
2. The Ministerial Written Statement “MWS” which prohibited affordable housing contributions for sites of less than 10 dwellings was dated 28 November 2014. So when the deed was dated the levying of affordable housing contributions on sites of less than 10 dwellings was lawful and policy compliant ----because the MWS wasn't in force.
3. You will recall the history of the challenge to the MWS by West Berks and Reading Councils --which eventually resulted in the MWS being declared lawful on 8 May 2016.
4. The s106 deed may be contractually enforceable ----but as a matter of policy and discretion the DCLG advises Councils not to seek money in these circumstances -- sites of 10 or fewer dwellings -- so for policy reasons the Council can release and discharge the s106 deed.
5. In any event the applicant just has to re-apply for the same planning permission for the same development to get a planning permission freed from the s106 deed ----so it may as well be dealt with pragmatically now -- in the way advocated above.

In short -- for the above reasons I recommend you decide to grant the application to discharge the s106 deed .

I have answered your question in full.

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From: planning.responses@arun.gov.uk [<mailto:planning.responses@arun.gov.uk>]

Sent: 30 October 2017 15:48

To: Delwyn Jones

Subject: Planning Consultation on: AW/314/17/PO

To: **Planning Solicitor- Delwyn Jones**

NOTIFICATION FROM ARUN DISTRICT COUNCIL

The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (As Amended)

Removal of a Planning Obligation

APPLICATION **AW/314/17/PO**

NO:

Registered: 19th October
2017

Site Address: Zacleigh Kings Parade Bognor Regis

Grid Reference: 492427 98683

Description of Works: Application to discharge planning obligations dated 03/09/2017 granted under AW/179/14/PL relating to Affordable Housing Provision in the S106 agreement.

The Council have received the above application. I shall be pleased to receive any observations you may wish to make.

[Click here to view the application details](#)

Should you have any comments to make, these should be sent by replying to this email by 30-NOV-17.

You can also monitor the progress of this application through the Council web site:
www.arun.gov.uk/planning

Please be aware that any comments you may make will be available on our website so please do not insert personal details or signatures on your reply.

In the absence of a reply within the period stated, I shall assume that you have no observations to make.

The application will be determined having regard to the development plan policies /if

any are relevant) and other material considerations. The development plan can be accessed via the website as can the leaflet which deals with material planning considerations.

Should the application go to appeal the Planning Inspectorate will publish any comments made to the Council on their website:

www.planningportal.gov.uk/planning/appeals/ but they will protect personal details.

The officer dealing with this application is Mr S Davis who can be contacted on telephone number 01903 737874.

Regards
Planning Officer

consultee_email
