

**Recommendation Report for Request to Modify or Discharge a Planning Obligation on a S106
Agreement Less Than 5 Years Old**

REF NO: A/118/23/DOV

LOCATION: Land South of Water Lane
Angmering

PROPOSAL: Application to enter a deed of variation to the Section 106 Agreement dated 7/3/19 linked to A/99/17/OUT in order to modify the definition of Green Infrastructure, the spend purpose of the BMX track, skate park and fitness equipment contributions and the Mortgagee in Possession clause.

SITE AND SURROUNDINGS

REASON FOR DECISION

This application seeks a Deed of Variation to the Section 106 dated 07/03/19 linked to planning permission A/99/17/OUT, in order to modify the definition of Green Infrastructure, the spend purpose of the BMX track, skate park and fitness equipment contributions and the Mortgagee in Possession clause.

A draft DoV has been provided to the Council, and been subject to Legal checking before proceeding to completion. In order to secure all the proposed modifications, it has been necessary for relevant stakeholders to be consulted on the changes and provide agreement. This has lead to significant delays and issues, which has held up the ability to determine and complete the modifications.

The Council, in considering this application, have allowed a substantial period of time for all issues to be resolved by the applicant, and explored all avenues in aiding the completion of this agreement. However, following no meaningful progress on this application for a significant time, it is determined that the LPA have exhausted all options; with there still being no outcome on this matter after 3 years of the application being live.

For this reason, it is concluded that no further action can be taken to finalise the Deed of Variation, and as such, this application must be refused.

DECISION

The planning obligations the subject of this request can only be modified or discharged by agreement between the authority and the person against whom the obligation is enforceable and shall not be entered into except by an instrument executed as a deed.

The modifications proposed are not accepted and the planning

obligation shall continue to have effect without modification.

DEVELOPMENT PLAN POLICIES

RECOMMENDATION

REFUSE