

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

REF NO: A/176/25/DOV

LOCATION: Land off Arundel Road
Angmering
BN16 3ET

PROPOSAL: Application to enter a Deed of Variation to modify the Section 106 dated 13th March 2020 (as amended) linked to A/122/19/OUT in relation to sections 2.1.2, 2.1.3, 2.1.4 Affordable Housing.

SITE AND SURROUNDINGS

REASON FOR DECISION	CONTEXT
	This application seeks a Deed of Variation to the Section 106 dated 13 March 2020 linked to planning permission A/122/19/OUT in relation to paragraphs 2.1.2, 2.1.3 and 2.1.4 of the "Interpretation" section under "Operative Provisions" concerning Affordable Housing definitions. These paragraphs currently define affordable housing as 75% affordable rented and 25% intermediate homes. VARIATION AND DECISION It is proposed to amend paragraphs 2.1.2, 2.1.3 and 2.1.4 of the "Interpretation" section under "Operative Provisions" to enable the on-site affordable provision to be replaced with a "discount on market value product" (at a 30% discount) which would result in a commuted sum (reduced from £3.064m based on no affordable housing) to reflect the achieved values of the discount to market value homes. The submission is accompanied by the following items, all of which (bar the application form and covering letter) are confidential as they contain sensitive financial information (including emails from affordable housing providers). Further, confidentiality is stated to be required in accordance with the Competition and Markets Authority (CMA) investigation in relation to value information being shared amongst UK housebuilders (published February 2024). - Application Forms for Deed of Variation. - Financial Viability Appraisal dated 28 August 2025 by s106 Management. - Report on affordable offers from July 2022. - Report on affordable offers from April 2023.

- Report on affordable offers from August 2024.
- Report on affordable offers from February 2025.
- Correspondence from Homes England confirming site went live on Clearing Service; and
- Correspondence from Worthing Homes, Vivid, Aster, Guinness Partnership, Hyde Housing, Stonewater and Saxon Weald.

On 18 March 2025, Officers took a Report to ADC Planning Policy Committee regarding the deliverability of affordable housing through the Section 106 process. Produced by the Three Dragons consultancy, this report was commissioned in response to a growing number of approaches from developers who had been unable to dispose of their affordable housing, as required under Section 106 agreements. It sought to produce a framework for the purposes of discussions and negotiations with applicants who are seeking to submit a DoV in respect of affordable housing and provide options for how issues with affordable housing can be resolved. This report was subsequently adopted by the Planning Policy Committee and is relevant now in consideration of applications such as this. The Three Dragons report can be found here:

<https://democracy.arun.gov.uk/documents/s20726/Appendix%20to%20Item%208%20-%20Affordable%20housing%20delivery%20-%20Three%20Dragons%20Report.pdf>

In addition, a revised Interim Proposed Housing Policy went before the Planning Policy Committee on 02 February 2026 and was approved by members. This strengthens the position regarding use of the Three Dragons Report.

The Council's Housing Development & Enabling Officer objected to the proposal stating that the steps in the Three Dragons Report should be followed before a commuted sum approach is proposed. Following further correspondence, the Officer then advised that:

- There is no evidence of the actual responses from the Registered Providers (RPs) for either the 2022 or 2024 rounds of requests.
- There is also no information at all for the 2023 round of requests.
- Offers were received in 2022 from Stonewater, Sovereign, Aster, Clarion, and Worthing Homes but it is not clear whether they were re-approached for offers in 2024.
- In 2025, the evidence suggests that only Saxon Weald, Guinness Partnership, Worthing Homes and Vivid were contacted.
- In 2025, the Council's list of approved RPs contained 9 providers including ADC; and

- Stonewater and Sovereign were and still are on that list, but it is not clear they were approached.

In summary, it does not appear that Redrow carried out a comprehensive approach to all of the RPs on ADC's Approved list for any of the rounds of requests for offers. In June 2025, the UK government announced a £39 billion investment over ten years (2026-2036) for the new Social and Affordable Homes Programme. Aimed at addressing the housing crisis and increasing social rent, it is the largest investment in social and affordable housing in a generation, with bidding opening in early 2026.

The 2025 round of approaches to the 4 RP's that Barratt Redrow made was prior to this announcement. The bidding process is currently underway and therefore Barratt Redrow should carry out a further round of approaches to all of the Registered Providers on ADC's Approved list as with the new funding in place, this is very likely to deliver the required on-site Affordable Housing that was agreed within the approved S106 Agreement for this site.

It is therefore recommended that the applicant undertake a further round of approaches to the RPs and then, if there is still no positive outcome, provide the results along with the previously omitted evidence to the Council for a further determination.

The Council is open to discussion and negotiation with variations to the S106. However, in line with the contents of the Three Dragons Report, without sufficient supporting evidence, Officers cannot determine that this is a reasonable or justified approach and must decline this DoV.

DECISION

The planning obligation(s) 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 modification proposed is not acceptable, as a result of lack of supporting evidence and justification, and as such the planning obligation shall continue to have effect without modification.

RELEVANT SITE HISTORY

A/207/21/PL	Variation of condition following grant of A/122/19/OUT relating to Conditions Nos 4 - approved plans and 16 - vehicular access.	App Cond with S106 23-11-21
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A/122/19/OUT	Outline application with some matters reserved for the erection of up to 160 dwellings with public open space, landscaping and sustainable drainage systems (SuDs), vehicular access point from Arundel Road; together with up to 1,393 square metres (15,000 square feet) of B1/B2 units with associated parking provision and vehicular access point from Arundel Road and land made available for expansion of current sports pitch provision (following the demolition of existing commercial units and one bungalow) (re-submission following A/36/18/OUT). This application is a Departure from the Development Plan.	App Cond with S106 17-03-20
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CONSULTATIONS

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

AHSP2 AH SP2 Affordable Housing

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance

RECOMMENDATION

REFUSE