

Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

23 April 2026
PP- 14840126

Dear Sir/Madam,

Land North of Mayflower Way

Application under Section 96A for a non-material amendment to A/122/23/PL to allow the development to be completed in phases

Planning permission was granted on 10 August 2023 for '*Erection of 1 no. dwelling with associated access, parking, fencing and landscaping*' under planning approval reference A/122/23/PL. The applicant's intention is to ensure the development is implemented and to this end the drainage pre-commencement condition has been discharged and the details required to discharge the only other pre-commencement condition, contamination, is currently with the Council for approval.

However, there are some outstanding legal matters that need to be addressed which have been taking some time to resolve and the applicant is conscious of the expiry of the planning permission in August this year. He would therefore like to implement the planning permission (upon discharge of the contamination condition) but is conscious that implementation will trigger the payment of the CIL charge. Without a clear timetable for the completion of the development, the payment of CIL would represent a financial burden that would mean the development could not be commenced.

It is acknowledged that the permission could be left to lapse and a new application submitted once the legal matters have been resolved. Given the site's location within the built-up area boundary, and no anticipated changes in policy or other material circumstances, it is anticipated that permission would be granted. However, the costs involved in resubmitting the application and meeting the Biodiversity Net Gain requirements that have become mandatory since the last application (we note that these may be relaxed later this year, but still yet to be confirmed), would affect the viability of the proposal on an already constrained site.

The applicant has taken legal advice on finding a mechanism for implementing the planning permission whilst deferring the CIL payment until there is certainty about the timescale for completing the dwelling. The advice is that CIL is only chargeable on the creation of gross internal floor area i.e. the construction of the dwelling. Therefore, if the development can be phased with the access and driveway comprising Phase 1 and the dwelling forming Phase 2, then CIL is only payable on Phase 2 and Phase 1 can be implemented without triggering that payment.

This application therefore proposes the phasing of the development as described above. The phases are shown on the accompanying drawing (019_P_10_01 P2) with Phase 1 being the access and driveway shown in yellow, and the dwelling marked in pink comprising Phase 2. This phasing plan can be added to the list of approved drawings under condition 2 of the planning approval.

It is submitted that a non-material amendment (S96A) is the appropriate mechanism for dealing with this change. Section 96A(1) of the Town and Country Planning Act 1990 provides the power to make a change to any planning permission if the Council is satisfied that the change is not material. There is no legislative definition of non-material. The Planning Practice Guidance states that this is dependent upon the context of the overall scheme (Paragraph: 002 Reference ID: 17a-002-20140306). In this case, the amendment being sought has no impact on the development as approved, it merely provides a mechanism for delivery in two stages.

Furthermore, Section 96A(3) includes a power to “impose new conditions” and “to remove or alter existing conditions” of a planning permission. This therefore allows the amendment of the plans condition to include the phasing plan and the alteration of any other conditions to reflect the phased nature of the development.

The Council has agreed in earlier correspondence that S96A is a suitable process for securing the amendments sought.

We have considered the other conditions on the planning permission as follows:

3. Obscure glazing - No change needed as it is regulatory.
4. Contamination – The application for the discharge of parts 1 – 4 is before the Council and if approved complies with the first part of the condition before any phase of development is commenced. The second part of the condition requires the submission of a verification report before the occupation of the dwelling and as such, does not require further amendment.

5. EV charging points – This is regulatory and has to be complied with before the occupation of the dwelling and therefore no amendment is required.
6. Energy Efficiency – This is regulatory and requires the dwelling to incorporate energy efficiency and therefore no amendment is required.
7. Car Parking – This is regulatory and requires provision of the car parking before the occupation of the dwelling and therefore no amendment is required.
8. Secure Cycle Parking Spaces - This is regulatory and requires provision of the cycle parking before the occupation of the dwelling and therefore no amendment is required.
9. Ecology – This is regulatory and requires the carrying out of the ecological mitigation and enhancement measures as submitted and therefore no amendment is required.
10. Biodiversity Enhancement Strategy – This requires the submission and approval of a Biodiversity Enhancement Strategy. The trigger is 'above slab level' which relates to the dwelling and would still apply to the phased development and therefore needs no further amendment.
11. Surface Water Drainage - The surface water drainage scheme has been approved under application A/183/25/DOC thereby complying with the main part of the condition. The remainder is regulatory requiring implementation of the strategy before the dwelling is occupied and this will not require amendment.

It is acknowledged that a phasing condition may be needed to be attached to the planning permission which requires the development to be carried out in accordance with the phasing plan and this application under S96A allows for this condition to be added for clarity.

It is hoped that the Local Planning Authority is agreeable to this application that will enable the applicant to implement the planning permission through Phase 1 without the CIL liability whilst outstanding legal matters are resolved. It does not materially affect the development for which permission has been granted but facilitates its delivery especially as a further planning application would be costly impacting on viability. It is of benefit to the character of the area and the amenities of the neighbouring residents for the development to come forward as soon as possible and this application assists in that process.

The process under S96A (non-material amendment) is the appropriate mechanism to introduce a new plan to the list under condition 3 and no other amendments to other conditions are required. A condition requiring the development to be carried out in accordance with the phasing plan can be added if considered necessary for clarity.

I trust that this application contains all the information necessary to determine the application, but should you require any further information then please do not hesitate to contact me.

Yours faithfully,

Dawn Appleton

Dawn Appleton
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Henry Adams LLP