

## Nicola Moore

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**From:** Nicola Moore  
**Sent:** 09 June 2021 11:42  
**To:** Rebecca Hoad; Lisa Coney  
**Cc:** Lizard Landscape Design and Ecology - Environmental Consultants; Peter [REDACTED]  
**Subject:** RE: P1456i Request for further information A/88/21/DOC

Dear Rebecca

With reference to your email below, which I have referred to the Strategic Team Leader Claire Potts.

Please submit an application for a Non-Material Amendment. The fee required [REDACTED], therefore an [REDACTED]. This can be paid via our website, please quote reference A/88/21/DOC

Kind Regards

Nicky Moore

Nicky Moore  
Technical Support Assistant, Planning



Littlehampton, West Sussex, BN17 5LF

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**From:** Rebecca Hoad [REDACTED]  
**Sent:** 02 June 2021 17:51  
**To:** Nicola Moore <[REDACTED]>; Lisa Coney [REDACTED]  
**Cc:** Lizard Landscape Design and Ecology - Environmental Consultants [REDACTED] Peter [REDACTED]  
[REDACTED] Chris Barker [REDACTED] Info [REDACTED]  
**Subject:** RE: P1456i Request for further information A/88/21/DOC  
**Importance:** High

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Dear Nicky,

Thank you for your email.

We have taken legal advice on this matter, from Irwin Mitchell LLP, to determine the best way to move forward.

Irwin Mitchell LLP have suggested that the position can be regularised through submitting a section 96A application (non-material amendment) to vary the landscaping plans approved under condition 1 of the reserved matters (i.e. substitute the old plans for the new ones).

Section 96a applications can be used to vary planning permissions. Case law has established that the “planning permission” to which section 96A refers is the “package” comprising of the grant of planning permission itself, together with any conditions to which the grant is subjected. An application for an amendment to a conditional reserved matters approval is an application for the alteration of an existing condition; which is expressly permitted by section 96A (*R (on the Application of Fulford Parish Council) v City of York Council* [2019] EWCA Civ 1359).

As you will be aware, in determining the application, the LPA has to be satisfied that the proposed change is not material. There is no statutory definition of what is material or non-material – this is a planning judgment within the LPA’s discretion. Planning practice guidance confirms that what would be considered non-material “*will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another*”.

The change to the trees is not considered to be a material change to the scheme and would not alter the fundamental permission. The change is considered to be minor and relates to the south-western site edge. We therefore consider the best way to move forward would be to submit a section 96A application to regularise the position.

Please could you confirm that you agree before we submit the relevant application forms for the section 96A application?

I look forward to hearing from you.

Kind Regards,

**Rebecca Hoad MSc Town Planning**  
Senior Planner

ECE Planning

ECE's Sussex office are relocating to Bayside, Worthing in the autumn of 2021. Read more [here](#).



Brooklyn Chambers, 11 Goring Road, Worthing, West Sussex, BN12 4AP.

ECE Planning, 11 Goring Road, Worthing, West Sussex BN12 4AP. ECE's Sussex office are relocating to Bayside, Worthing in the autumn of 2021. Read more [here](#).

**From:** Nicola Moore

**Sent:** 26 May 2021 11:12

**To:** Chris Barker; Lisa Coney

**Cc:** Lizard Landscape Design and Ecology - Environmental Consultants

Rebecca Hoad; Peter; Info

**Subject:** RE: P1456i Request for further information A/88/21/DOC

Dear Mr Barker

With reference to your email below, which I have discussed with Ms Coney, the tree protection and retention was approved under A/86/20/DOC, however landscaping was approved under A/38/18/RES.

Therefore, the replanting for the purposes of the unauthorised tree removal, previously approved under A/86/20/DOC now needs to form part of a revised landscaping scheme under a new reserved matters application.

If you have any queries regarding this, please do not hesitate to contact either myself or Ms Coney.

Kind Regards

Nicky Moore

**Nicky Moore**  
Technical Support Assistant, Planning



Arun District Council, Civic Centre, Maltrovers Rd, Littlehampton, West Sussex, BN17 5LF

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**From:** Chris Barker

**Sent:** 25 May 2021 10:55

**To:** Lisa Coney; Planning; Nicola Moore

**Cc:** Lizard Landscape Design and Ecology - Environmental Consultants

Rebecca Hoad; Peter; Info

**Subject:** P14561 Request for further information A/88/21/DOC

**Importance:** High

Dear Ms Moore and Ms Coney,

Further to receipt of the attached letter (dated 10 May 2021) with regards to the tree matter at Manor Nursery, we are contacting you on behalf of the Applicant Roffey Homes and separately, Lizard Landscape Design and Ecology.

We understand that there is some confusion as to which type of application should be submitted in order to address the breach of planning control matter previously raised by Lisa Coney. Based on the minor changes to the scheme we consider that it would entirely appropriate to deal with these changes by reason of amended details submitted to discharge Condition 5 pursuant to the Outline consent (reference A/51/14/OUT), as copied below:

*'(a) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837:2012 (Trees in relation to design, demolition and construction: Recommendations), which provides for the retention and protection of trees, shrubs and hedges to be retained on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.'*

