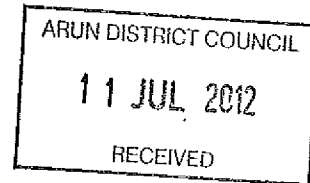


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Mr P Stack
Planning Department
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

Our ref: CO/S783
Your Ref :

10 July 2012

Dear Paul,

Application for the Modification of Planning Obligation – Site 6 Chichester Road, North Bersted

Further to our recent correspondence and Andrew McPhillips presentation to the Site 6 Liaison Committee, we are pleased to enclose an application for the modification of the S106 dated 4 August 2006, and subsequent Deed of Variation dated 10 March 2010 as follows:

Flood Compensation Area

Due to the delay in commencement of the BRNRR and the preparation of the flood compensation area running concurrently with the construction of the road due to the soil requirements of the road, the trigger is to be revised to before construction of 350 dwellings. This trigger has already been agreed in principle under application BE/99/11/PO, which has now been withdrawn to incorporate the additional variations required, as set out below.

Schedule 7 Part 1 Paragraph 7
Amend trigger to state:

"On or before construction of 350 Dwellings the Owners will undertake the works to the Flood Compensation Area agreed with the County and the Environment Agency at the location shown on the Open Space plan at Schedule 1 of this Deed as part of the delivery of the Bognor Regis Relief Road in accordance with the agreement to be entered into between the Owners and County Council"

Please refer also to:

- Letter to Keith Wheway dated 24 May 2011
- Northern Relief Road Flood Compensation Area – drawing 2037/NRR/D/105 Rev C
- Northern Relief Road Flood Plain Intrusion areas – drawing 2037/NRR/D/101 Rev E



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Healthcare

Due to the current unknown position with regard to the requirement for the provision of healthcare services within North Bersted, it is proposed to delay the trigger by two years, to allow for ongoing discussions between Berkeley Homes and the Council to come to a conclusion. In line with our projections, a delay of two years would equate to occupation of 262 Market dwellings.

Clause 10.5

Healthcare Contribution – amend trigger from 105 Market Dwellings to 262 Market Dwellings

Clause 10.6

Healthcare Contribution – amend trigger from 105 Market Dwellings to 262 Market Dwellings

Schedule 3

Schedule 3 Covenants Restrictions and Obligations relating to healthcare matters paragraphs 1, 2 and 3 shall be deleted in full and replaced with the following paragraphs:

1. The Owners shall not occupy or permit the occupation of more than 262 Market Dwellings before the Healthcare Contribution has been paid to the Council for the purpose of the provision of or improvements to the healthcare services works buildings and/or facilities in or servicing the Locality.
2. Prior to the occupation of more than 262 Market Dwellings the Healthcare Contribution shall be paid to the Council for the purpose of the provision of or improvements to the healthcare services works buildings and/or facilities in or servicing the Locality.
3. The Owners shall not occupy or permit the occupation of more than 262 Market Dwellings until the Health Facility Site has been serviced and transferred to the Council or its nominee on the terms of Model Draft Transfer and related Option Agreement shall have been simultaneously entered into with the transferee.

Sports Pitches Area D

Schedule 7, Part 1, Paragraph 1

The Owners shall not occupy nor permit the occupation of more than one hundred and fifty (150) Market Dwellings on the Site until they have laid out Open Space Area D including three Senior Football Pitches together with run offs drainage and appropriate surfacing on the Open Space Area D to the reasonable satisfaction of the Council in accordance with the basic requirements of Schedule 12 and a specification which shall first have been submitted to and approved by the Council (approval not to be unreasonably withheld) as shown for the purposes of identification only on the Open Space Plan at Schedule 1 to this Deed in a manner suitable for a variety of pitch based sports (including football) and transferred the same to the Council in terms of the Model

Draft Transfer (subject to such minor amendments as may be agreed by the Council buy on terms no less advantageous to the Council) together with the relevant Open Space Contribution.

Schedule 7, Part 1, Paragraph 2

Prior to occupation of more than one hundred and fifty (150) Market Dwellings on the Site the Owners shall lay out Open Space Area D including three Senior Football Pitches together with run offs drainage and appropriate surfacing on the Open Space Area D to the reasonable satisfaction of the Council in accordance with the basic requirements of schedule 12 and a specification which shall first have been submitted to and approved by the Council (approval not to be unreasonably withheld) as shown for the purposes of identification only on the Open Space Plan at Schedule 1 to this Deed in a manner suitable for a variety of pitch based sports (including football) and pay the relevant Open Space Contribution.

Clause 10.5

Open Space Contribution Area D – amend trigger from 105 Market Dwellings to 150 Market Dwellings

Clause 10.6

Open Space Contribution Area D – amend trigger from 105 Market Dwellings to state:

“150 Market Dwellings or if earlier on date of transfer of relevant area of Open Space or if earlier on date of transfer of relevant area of Open Space ”

Spectator Shelter

Delete existing paragraphs and replace with:

1. Within 12 months of the sports pitches having been laid out in accordance with Part 1 of Schedule 7 of this Deed Berkeley will have Practically Completed the Spectator Shelter in accordance with the approved specification to the reasonable satisfaction of the Council and on Completion Berkeley will transfer the Spectator Shelter and the land on which it stands to the Council on the terms of the Model Draft Transfer (subject to minor amendments as may be agreed by the Council but on terms no less advantageous to the Council) together with the Warranty Agreement and the Spectator Shelter Communities Sum and the Latent Defects Insurance Policy.

Cricket Pitch

Schedule 12 – Specifications

Cricket Pitch Specification to be amended to refer to Non-Turf Artificial Cricket Match Pitch, with inclusion of Specification document.

Linear Open Space Areas B and C

Schedule 7, Part 1, Paragraph 14 currently states:

Prior to occupation of more than 140 Market Dwellings the Owners shall lay out the Village Green and the Linear Open Space to the reasonable satisfaction of the Council in accordance with the specification previously submitted to and approved by the Council (not to be unreasonably withheld) and pay the related Open Space Contributions to the Council.

Linear Open Space Area B

Public Open Space area B to be subdivided to allow a new area (B1) to be delayed until the occupation of 350 market dwellings. This is due to the area being used for earthwork strategy. Joe Russell-Wells has agreed to this delay in principle, as per e-mail of 6th June 2012 (enclosed for your reference).

Paragraph 14 to be revised to state:

Prior to occupation of more than 140 Market Dwellings the Owners shall lay out the Village Green and Linear Open Space Area B to the reasonable satisfaction of the Council in accordance with the specification previously submitted to and approved by the Council (not to be unreasonably withheld) and pay the related Areas A and B Open Space Contributions to the Council.

Add new paragraph as follows:

Prior to occupation of more than 350 Market Dwellings the Owners shall lay out the Linear Open Space Area B1 to the reasonable satisfaction of the Council in accordance with the specification previously submitted to and approved by the Council (not to be unreasonably withheld) and pay the related Open Space Contributions to the Council.

Plan 1 (from DoV dated 10 March 2010) is also to be amended to revise the areas for B and B1.

To confirm, we are not proposing to amend the contribution trigger for Area B as a whole, which shall remain at occupation of 140 market dwellings.

Please also refer to:

- E-mail exchange between Robert Westwood and Joe Russell-Wells dated 6 June 2012.

Linear Open Space Area C

Due to the delayed commencement of the BRNRR, part of Linear Open Space Area C is not scheduled to be completed until the completion of the road, due to the required surcharging of the soil used to form the noise bund. It is therefore proposed that the trigger is delayed to link to the completion of the BRNRR and using our approximate projections for occupations, it is suggested that the trigger is revised to occupation of 240 market dwellings (approx. November 2013).

Add new paragraph as follows:

Prior to occupation of more than 240 Market Dwellings the Owners shall lay out the Linear Open Space Area C to the reasonable satisfaction of the Council in accordance with the specification previously submitted to and approved by the Council (not to be unreasonably withheld) and pay the related Open Space Contributions to the Council.

Rowan Way Upgrade Contribution

Further to correspondence between Robert Westwood and Harvey Rogers at WSCC, there is agreement to the removal of the requirement for Rowan Way Upgrade Contribution from the obligations in the S106 Deed which for the avoidance of doubt, we wanted to include in this Deed of Variation. This is due to Berkeley having provided the signage to the Southern Cross RAB as part of the BRNRR s38 agreement in lieu of these works. The Deed of Variation shall therefore remove the definition of "Rowan Way Upgrade Contribution" from Part 1 Definitions and Schedule 2 – Additional Financial Contributions of the Deed of Supplementation dated 23 September 2011.

Please also refer to:

- E-mail exchange between Robert Westwood and Harvey Rogers dated 19 April 2012.

We have instructed our solicitors to draft the Deed of Variation in line with the above and accordingly shall forward a draft for review shortly.

We trust the above provides sufficient justification to support this application. If you require any additional information, please do not hesitate to contact me.

Yours sincerely



Olivia Collett
Planner