

Recommendation Report for Removal of a Planning Obligation

REF NO: BE/98/12/PO

LOCATION: Site 6
Chichester Road
North Bersted

PROPOSAL: Application to modify a Planning Obligation dated 04/08/2006 under planning reference BE/45/04 & a subsequent Deed of Variation dated 10/03/10 in respect of flood compensation area, healthcare, open space, sports facilities and highway upgrade contribution

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application relates to the original consent for Site 6 allowed on appeal under reference BE/45/04, its associated planning obligation dated 4th August 2006 and subsequent deed of variation dated 10th March 2010. The various aspects of this application are summarised in the following paragraphs.

Flood Compensation Area

The construction of the BRNRR requires a surcharging exercise whereby the earth removed to form the embankment requires a period of settlement. Once settled the excess is removed leaving a compacted stable embankment on which to construct the road. This method of construction requires a two stage process, firstly a larger volume of earth will be excavated to allow for the construction of the oversized embankment then the excess earth is removed and reinstated within the Flood Compensation Area. The previous trigger required such works to be commenced before construction of the road or 101st market dwelling.

Due to a delay in the commencement of the road works 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 application seeks to revise the trigger now to a point that is linked to the construction of the embankment for the Relief Road.

Healthcare

Due to the current unknown position with regard the requirement for the provision of healthcare services within Bersted the application seeks to delay the trigger point by two years to allow ongoing discussions between the

landowners and the Council to come to a conclusion. In line with current projections a delay of two years would equate to occupation of 300 market dwelling. The current trigger point being 105 market dwellings.

This amendment relates to the land and not the timing of the healthcare contribution.

Sports Pitches

Current trigger point requires the laying out of an open space area (D), with an agreed specification, to include three senior football pitches and payment of an open space contribution prior to the occupation of 105 market dwellings. This application seeks to move the trigger to 200 market dwellings and includes a 12 month period for ground settlement.

Spectator Shelter

Previous trigger was 105 dwellings which is now amended to to provided within 12 months of laying out the sports pitches which ties in with the sport pitch provision dates.

Cricket Pitch

Specification to be amended to incorporate an artificial table.

Linear Open Space Areas B and C

Area B to be subdivided into B and B1 with Area B and Village Green to be laid out prior to 140 market dwellings and B1 before 350 market dwellings. Given delayed commencement of BRNRR part of Area C not scheduled to be completed until completion of the road. It is therefore requested that the trigger is delayed to link with the completion of the BRNRR and this is anticipated to be at occupation of the 240th market dwelling (approximately November 2013).

Rowan Way Upgrade Contribution

Following discussion with WSCC there is agreement to remove the requirement for this contribution as widening of the roundabout would conflict with the route of the new shared use cycleway. As this cycleway will eventually form part of a much longer strategic cycle facility it is considered to be more important than the roundabout works. Relevant

signage has been provided by the developer as part of the Section 38 agreement.

Affordable Housing

Due to the fact that affordable housing delivery over the site has been significantly front-loaded, it is proposed to amend the limitations on completions of market dwellings within any phase from the current figure of 50% (before the affordable housing within that phase has been completed).

Only affordable housing in one phase (phase 2 - 18 units) remains to be delivered and it is proposed to revise the agreement for delivery of affordable housing within this phase to reflect the requirement to have affordable housing within this phase delivered half way through the final phase (387 market dwellings).

Primary School Site

Amends the obligations on WSCC by removing the requirement to obtain planning permission prior to the transfer of land.

SITE AREA	n/a
RESIDENTIAL DEVELOPMENT DENSITY	n/a
TOPOGRAPHY	n/a
TREES	n/a
BOUNDARY TREATMENT	n/a
SITE CHARACTERISTICS	Former agricultural land now part of the Site 6 development site.
CHARACTER OF LOCALITY	Residential to the south and agricultural land to the north.

RELEVANT SITE HISTORY

BE/45/04/	Outline Application for residential development comprising 650 residential dwellings, formal & informal public open space, including sports pitches, community facilities & associated works. Western section of the Bognor Regis North relief road between the A259 Chichester Road & Rowan Way (This application is accompanied by an environmental statement, affects a public right of way & the setting of a conservation area & constitutes a departure from the development plan)	NON DET APPEAL 19-11-2004 Appeal: Allowed+Conditions 22 11 2006
BE/99/11/PO	Application to modify a planning obligation dated 04/08/2006 under planning application reference BE/45/04/ relating to Schedule 7 open space - flood compensation area	Withdrawn 31-05-2012

BE/99/11/PO - similar application in respect of adjustment to flood compensation area trigger withdrawn to allow this application to be resubmitted incorporating additional trigger amendments.

REPRESENTATIONS

Representations received:

Bersted Parish Council

Objection to Deed as originally submitted on the grounds that the time scale for completing the works keeps slipping and the trigger points keep being modified and changed. Delaying contribution to new healthcare facilities will put a strain on the existing healthcare provision in Bersted as more homes are occupied.

Following the removal of any proposed amendment to the trigger for making the healthcare contribution, the Parish Council have removed their objection.

Comments on Representations received:

Sufficient and reasoned justifications are put forward for such amendments and such applications can be supported.

CONSULTATIONS

Environment Agency
Engineering Services Manager
WSCC Local Development Divis.
West Sussex Primary Care Trust
Parks and Landscapes

Consultations responses received:

None

Comments on Consultation responses:

POLICY CONTEXT

Designation applicable to site:
Site 6

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposal relates to a proposed Deed of Variation to an existing Section 106 agreement and an attaching subsequent Deed of Variation concerning the timing of a flood compensation area, healthcare provision, sports pitches, spectator shelter, cricket pitch, affordable housing and open space.

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8(right to respect for private and family life)and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal neutral impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

RECOMMENDATION

APPROVE