

CIR.P19-2044/DH

11th December 2019

Planning Services
Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

PP-08345871

Dear Sir/Madam,

Application for the 'removal or variation of a condition following grant of planning permission' of Conditions 2, 8 and 18 of planning permission reference BN/43/16/PL at

Land at Angels Nursery, Yapton Road, Barnham, West Sussex, PO22 0AY.

Pegasus Group is instructed by Redrow Homes to submit an application under the terms of Section 73 of the Town and County Planning Act 1990 (as amended) in connection with the above site.

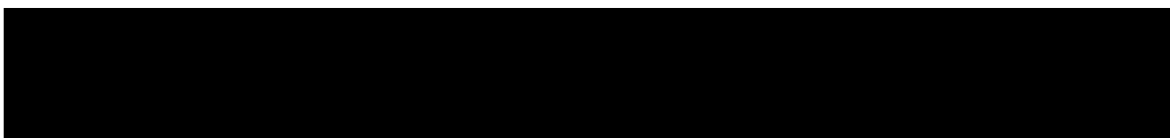
In support of the application, please find enclosed the following documentation:

1. An 'Application for removal or variation of a condition following grant of planning permission' proforma, duly signed and completed with relevant notices served.
2. A Site Location Plan – ref: 2124/00
3. Copies of the proposed (amended) plans as listed in the table below.
4. The appropriate planning application fee of £234 and Planning Portal administration fee paid via the Planning Portal.

Application Background

As you will be aware, full planning permission (ref.BN/43/16/PL) was granted by Arun District Council on 3rd May 2017 for a development comprising:

"95 No. dwellings together with access, landscaping open space & associated works"



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Given that it was a full planning permission all details relating to the site layout, the scale and appearance of the buildings and the way in which the site would be landscaped are already fixed.

My client has been reviewing the approved drawings and they feel that there is scope to improve upon the detailed design of the scheme both in terms of layout and the design of the house types. There is also scope to improve on the approved landscaping.

As established by caselaw, a Section 73 application cannot be used to make a fundamental alteration to the development that was approved previously. In this case the description of development would remain as before and there would be no fundamental change. The development would still provide for 95 dwellings, all within the same site area. The scale and character of the development would be fundamentally the same. All that is changing is the detailed design.

Had the revised drawings been available at the time of the original decision being made, there would have been no reason why the decision maker could not have imposed conditions requiring compliance with those drawings rather than the approved drawings. This reaffirms why the changes would not amount to a fundamental alteration in legal terms.

The Application Proposal

This application seeks planning permission to develop the land not in compliance with conditions that were previously attached. In simple terms it seeks to vary Conditions 2, 8 and 18 pursuant to planning permission BN/43/16/PL.

Condition 2

Condition 2 lists the plans previously approved as part of the extant planning permission. The application proposes to substitute the approved plans with the comprehensive set of revised as detailed in the table below:-

Approved Plan Name	Plan Reference	Date	Amended Plan Name	Plan Reference	Date
Site Plan	2124-02 A	Sep 2016	Site Layout	P19-0723-10	Nov 2019
Site Plan Showing Public Open Space Areas	2124-127 B	Sep 2016	Public Open Space Plan	P19-0723-09A	Nov 2019
House Type Plans	2124-03 to 2124-120 inclusive	Aug 2016	House Type Pack	P19-0723-41	Nov 2019

Garage Plans	2124-121 to 2124-124	Aug 2016	House Type Pack	P19-0723-14	Nov 2019
Bin and Storage Store Plans	1224-125A to 2124-126	Aug 2016	House Type Pack	P19-0723-14	Nov 2019
Site Plan	2124-02 A	Sep 2016	Landscape Masterplan	P19-2044-01	Nov 2019

Condition 8

Condition 8 of planning permission reference BN/43/16/PL relates to arrangements for the future access and maintenance of any watercourse or culvert crossing or abutting the site. Condition 8 states:

"The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority.

No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion."

It would not be necessary to require agreement on the layout if the layout is to be agreed through condition 2.

It is therefore proposed that Condition 8 of planning permission reference BN/43/16/PL is varied to read as follows;

"No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion."

Condition 18

Condition 18 of planning permission reference BN/43/16/PL relates to access and associated off-site highway works. Condition 18 states:

"The development hereby permitted shall not be commenced until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation with the CHA.

Reason: To ensure fit-for-purpose roads constructed to appropriate design and safety standards."

The application proposes that Condition 18 is varied from a pre-commencement trigger, to a pre-occupation trigger, so as to read as follows;

"No dwelling hereby permitted shall be occupied until the access and associated off-site highway works have been constructed in accordance with plans and details (including recommendations of any associated Road Safety Audits) to be submitted to and approved by the LPA after consultation with the CHA.

Reason: To ensure fit-for-purpose roads constructed to appropriate design and safety standards."

Redrow Homes is aware that the off-site highway works are required to service development, however, it is considered inefficient and a waste of resources to implement the off-site highway works prior to the initial construction phases of development (particularly work in relation to ground levels which could involve earth being moved to or from the site). The way the condition is currently worded would result in a newly implemented road being subject to significant wear and tear which Redrow, or the County Council, will be liable to repair. It would be a better use of resources to allow the initial construction phase of development to be completed, with the implementation of the off-site highway works after these initial works.

Following discussions with the County Council, Redrow Homes are aware that the County Council would not object to such a proposal (which has been reinforced by the County's response to the consultation).

The off-site highway works are not required to make the construction work acceptable; and it is very likely that a temporary construction access will be created to the western end of the site fronting Yapton Road (which will be detailed in any construction management plan sent to the Council to discharge condition 27).

As Officers will be aware, Redrow Homes has already submitted an application to vary condition 18 (LPA ref: BN/93/19/PL) but a decision has yet to be made on that application. It is included in this application purely for completeness and to ensure that there is consistency between any approvals.

We trust that the above and enclosed are sufficient to validate this application and progress it towards determination. Should you require any further information please do not hesitate to contact me at the above address.

Yours faithfully,

Adam Jones

Planner

