

LHU/CIR.P16-0421PL

14th February 2019

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

Dear Sirs,

Town and Country Planning Act 1990
Section 73 Application to Vary Outline Planning Conditions 15, 16 and 25 and
other associated variations (BN/16/12)
Land at Former Pollards Nursery, Lake Lane, Barnham

I am instructed by my client, Redrow Homes to submit an application for a Section 73 Application in connection with the above site.

Outline planning permission was granted (LPA ref: BN/16/12) on appeal dated 17th October 2013 for the development of the above site, subject to 26no planning conditions. This application is made pursuant to Section 73 of the Town and Country Planning Act 1990 and relates to the outline planning permission (BN/16/12) in relation to conditions 15, 16 and 25 relating to energy, the Code of Sustainable Homes requirements and the pedestrian visibility splays.

Forming part of this application please find enclosed the following documentation:-

1. A copy of the planning application proforma duly completed and signed;
2. A copy of the Site Location Plan P16_0421_07-1 (as provided with the application BN/51/16 – the Reserved Matters);
3. A copy of the approved access plan C85102-D-128B
4. A copy of the approved Energy Statement (rev B);
5. A copy of the Landscape/Tree Plan JSL2477_712F;
6. A copy of the Decision notice BN/16/12);
7. A copy of the suggested wording of the planning conditions in Word form; and

PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

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8. A cheque for £234 made payable to Arun District Council to cover the relevant application fee has been made to the Planning Portal.

Background:

As noted above, the site benefits from outline planning permission (LPA ref: BN/16/12) the description of development comprises:

"Outline planning application for the erection of up to 310 residential units comprising 1, 2, 3, 4 and 5 bedroom units (including affordable housing); new access from Winchester Road (A30); a new pedestrian link from Winchester Road; internal access roads; with open space and landscaping."

The Reserved Matters were approved (LPA ref: BN/21/15/RES) on 2nd December 2015 with subsequent applications approved in 2017 (LPA ref: BN/51/16 and duplicate submission BN/52/16).

The Outline Planning Permission was subject to a series of planning conditions, specifically condition 15 relating to energy, condition 16 which addressed the Code for Sustainable Homes and condition 25 which relates to the pedestrian visibility. It is these conditions which this application seeks to address. These conditions are as follows:

Condition 15:

At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources. Details and a timetable showing how this is to be achieved, including details of physical works on site shall be submitted to and approved in writing by the (as part of the reserved matter submissions required by condition 1). The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

Condition 16:

"The dwellings shall achieve Level 3 of the Code for Sustainable Homes (or any such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved."

Condition 25:

"No part of the development shall be first occupied until pedestrian visibility splays of 2m by 2m have been provided either side of the proposed vehicular access onto Lake Lane in accordance with plans and details first submitted to and approved in writing by the Local Planning Authority"

Condition 15

This condition requires a 10% reduction in energy supply. It is proposed to amend the working of this condition to reflect a 10% reduction in energy demand. The submitted

Energy Statement (Rev B) outlines how this 10% reduction can be achieved on the site through the fabric first approach. It is therefore proposed that condition 15 be altered to reflect the contents approved in the latest Reserved Matters Application. It is suggested that the wording could be:

The development shall proceed in accordance with the details set out in the approved Energy Statement Rev B dated 27.10.2017 which demonstrates a 10% energy demand reduction within the approved development, unless an alternative strategy is otherwise submitted to and approved in writing by the Council.

Condition 16 – Code for Sustainable Homes

Since the decision was made in March 2014, the Code for Sustainable Homes Standards has been withdrawn as a result of the Deregulation Act 2015. This followed the Government's Housing Standards Review which sought to streamline the standards across the county and to remove location variations and simplify government regulations and standards into one key set, driven by Building Regulations.

The Ministerial Statement (March 2015) that followed Housing Standards Review stated:

"The government's policy is that planning permissions should not be granted requiring, or subject to conditions requiring, compliance with any technical housing standards other than for those areas where authorities have existing policies on access, internal space, or water efficiency..."

Following the passing of the Act in 2015, any such requirements are only to be brought forward through the Local Plan process alongside the Building Regulations. Therefore, the standards required within these conditions are now inconsistent with the Government's position on such matters.

It is clear that the stance of the Government that such requirements are now to be subject of control through alternative legislation and this highlights that the requirements of the conditions are no longer required and that the removal of this condition (16) would not be material to the planning permission.

Condition 25 – Pedestrian Visibility Splay

The purpose of this condition is to provide visibility for pedestrians at the main entrance to the site. On review of the layout following the submission of the latest Reserved Matters application, the revised plans also include an adjustment to the access road to retain the existing access road. However as part of these works the road has been re-surfaced and a pedestrian footpath added to the western side of the access on entering the site. This footpath will run into the development from a cross-over point on Lake Lane which will provide a link to the existing footpath on the other side of the road. There is no footpath to connect to on the eastern side of the access.

The plans submitted as part of the recently approved Reserved Matters (Drawing ref C85102-D-128) demonstrates that the required visibility can be achieved using the existing access. However, the wording of condition 25 is required to be amended to reflect the current proposals. It is suggested that it should read:

"No part of the development shall be first occupied until a pedestrian visibility splay of 2m by 2m has been provided

~~either side of~~ on the western side of the proposed vehicular access onto Lake Lane in accordance with plans and details first submitted to and approved in writing by the Local Planning Authority."

In summary the purpose of this application is to seek a Section 73 application to vary conditions 15 and 25 and to remove condition 16 as well as other consequential changes to the conditions.

Tree Plan and Other Conditions

The revised tree protection plan has also been included in the submission and has been referred to in the suggested wording for condition 11. This and the other suggested amendments to the conditions have been provided for discussion purposes as part of the application.

Planning Considerations:

Condition 15

The change to the wording will reflect the energy approach which has been submitted and accepted by the Council through the Reserved Matters. It does not alter the fundamental objective.

Condition 16:

The objectives of the standards are not removed, however, the Government approach is such policies are not required and to ensure a consistent approach, these matters are now controlled by other legislation. It is on this basis that this application is submitted.

Condition 25:

The proposed amendment to the wording of the condition continues to provide the pedestrian access and visibility splay but provides for consistency with the latest Reserved Matters scheme.

In terms of the considerations associated with this application, the following should be noted;

1. The changes would not materially change the development that has been granted planning permission.
2. There is no change to the quantum or scale of the development.
3. The LPA can amend and/or impose new conditions through a S73 decision, as they see fit.
4. The removal of condition 16 and the amendments to conditions 15 and 25 do not affect the basis which supported the outline application on which the decision was made.
5. Condition 16 no longer serves a planning purpose and are controlled through alternative legislation.
6. The majority of the consequential changes to the conditions simply relate to the details already approved by the Council.

In summary, the proposed removal and amendment of these conditions does not alter or change the approved development, nor the evidence base which supported the outline application.

I trust that the enclosed provides you with sufficient information to validate the application and progress towards determination. Should you have any queries please contact me at the above address.

Yours faithfully,



Laura Humphries
Associate Planner

Email: laura.humphries@pegasusgroup.co.uk

Enc.