

LHU/CIR.P16-0421PL

7th June 2019

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

Dear Sirs

Section 73 application to vary planning conditions of BN/12/16 relating to condition 15 (energy) and 25 (pedestrian access), deletion of condition 16 (code for sustainable homes).

Land at Former Pollards Nursery, Lake Lane, Barnham

I am instructed by my client, Redrow Homes to submit additional application in support of the Section 73 Application in connection with the above site.

Officers have requested that the description of development be amended to include the consequential revisions to the other planning conditions whereby it is proposed to make reference to the details already approved by the Council by including reference to the appropriate discharge of condition application. The description of development is therefore proposed to be amended to read as follows;

Section 73 application to vary planning conditions of BN/12/16 relating to condition 15 (energy) and 25 (pedestrian access), deletion of condition 16 (code for sustainable homes).

Please consider this as clarification of the proposed description of development.

Background:

As officers will be aware, the site benefits from outline planning permission (LPA ref: BN/16/12) allowed on appeal. 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).

These applications approved the detailed layout and design of the proposed development. Specifically, following discussions through the application, the scheme included the details of the proposed energy scheme which was approved as part of the RM applications. The layout also included the associated links such as the access connecting the site to the boundary of the Goodacres site. Additionally, discussions were held with the WSCC regarding the access

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arrangements into the site and it was agreed that there was only a requirement for a footpath on one side of the access as there is no path to connect to. This was shown on the plans and approved as part of the RM decisions.

As a result of the RMs approved, there are minor discrepancies between the approved RM plans and the wording of some of the planning conditions. This application seeks to regularise these points by varying the wording of those conditions to ensure consistency.

I have provided a track change version of the proposed conditions which shows the proposed amendments but it is appreciated that this is a matter for continued discussion.

Conditions Proposed to be Varied

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.

Whilst the report has been submitted and approved as part of the RM applications, this condition is proposed to be amended for consistency with the details approved.

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 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.”

Tree Plan

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.

Changes to other conditions:

In addressing the above specific conditions, it is also proposed that the S73 conditions also reflect the details which have been approved under various discharge of condition applications. These relate to conditions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 20, 21, 22, 23, 24, and 26.

The changes proposed to these conditions seeks to include reference to the details which have been approved by the Council. They do not alter the objective or purpose of that condition.

Conditions Proposed to be Deleted

Conditions 2 and 3 – RM and Timescales

As part of the S73, it is proposed that conditions 2 and 3 relating to the time limit and submission of reserved matters are deleted. A S73 decision grants a new planning permission but the outline permission is time expired therefore for the avoidance of doubt these conditions are proposed to be deleted.

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.

In this instance, the details of the houses such as the layout, appearance and landscaping have now been approved via the RM decision.

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.

Summary & Conclusions:

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.

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

Laura Humphries
Associate Planner

Email 

Enc.

