

Simon Davis

Fr: Simon Davis
Sent: 06 October 2014 14:17
To: 'Peter Champion'
Subject: RE: BR/71/12 - preparing NMA & DOC applications

Dear Mr Champion,

I would suggest emailing the relevant case officer as soon as you receive notification that the application has been accepted/validated. Follow it up with a phone call.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control
Arun District Council (First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF)
Telephone: +44 (0)1903 737874
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From: Peter Champion [mailto:]
Sent: 06 October 2014 13:47
To: Simon Davis
Subject: BR/71/12 - preparing NMA & DOC applications

Dear Mr Davis,
I am preparing the NMA and DOC applications, which I hope will be the final word on this site so I can get going on it.

DOC & Phased build

In the previous DOC application I had included the text that we had previously agreed (your email 17 April) on phasing the build, but it didn't get referenced in any of the published Decisions.

"Dwellings may be completed and occupied in any order, so long as before a dwelling is occupied,

1. the shared part of the accessway is provided, including its landscaping,
2. the shared visitor spaces are provided,
3. the parking and landscaping particular to that dwelling is completed,
4. all services required by that dwelling are in place and operational. "

As you pointed out, the existing conditions state, ".....or in accordance with a programme agreed with the Local Planning Authority".

But how do I include this in the DOC application to be sure that it gets referenced in the Decisions (e.g. in case a different Officer deals with it)?

Should I perhaps include the statement on the plans for the drainage and landscape designs, would that work?

Kind regards
[Redacted Signature]

-----Original Message-----

From: Peter Champion [mailto:]
Sent: 21 August 2014 13:38
To: Simon Davis
Subject: RE: BR/119/14/DOC

Dear Mr Davis,

That sounds just perfect; I had forgotten that we could do it in the DOC, and the way you suggest I'll end up with everything I need.
Thanks very much.

Kind regards,
Peter Champion
07732 889560

-----Original Message-----

From: Simon Davis [<mailto:Simon.Davis@arun.gov.uk>]

Sent: 21 August 2014 13:26

To: 'Peter Champion'

Subject: RE: BR/119/14/DOC

Dear Mr Champion,

You asked whether the NMA process could be used to insert a new condition. As I understand from reading s.96a of the 1990 Act (thank you for the link but I'd found it before I got to your 2nd/3rd emails), an NMA can be used to impose new or alter/remove existing conditions. However, we can only do this if the changes are non-material and I am not sure whether we would deem the changes in terms of phasing to be non-material.

Looking back at PP ref BR/71/12/, the landscaping & drainage conditions imposed by the inspector include the following: *"or in accordance with a programme agreed with the Local Planning Authority"*. Might it not therefore be easier to apply to re-discharge these two conditions and include details of the phased approach within the discharge of conditions application. I appreciate that you had wanted to do that on BR/119/14/DOC but this was not made explicit on that application, hence why I did not include it in the decisions. If you re-apply to discharge those conditions, I would suggest we could deal with these fairly quickly as we have already approved the drainage/landscaping detail and it would just be the phasing to consider.

I trust that I have interpreted the situation correctly.

Kind Regards

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From: Peter Champion [<mailto:> 

Sent: 21 August 2014 11:30

To: Simon Davis

Subject: RE: BR/119/14/DOC

Dear Mr Davis,

I'm sure I've seen it said before that a MMA is used to vary a condition, but if there isn't a suitable condition to modify in a consent, then you can use an NMA to create one, which you can then use a MMA to modify....

The "Greater Flexibility" document from

2010, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5997/1729942.pdf , says:

66. Can a condition listing plans be added to the permission if it doesn't currently contain one?

It would be possible to apply to add a condition listing plans under s.96A of the TCPA 1990 (the non-material amendments procedure).

Kind regards,
Peter Champion

Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 21 August 2014 11:08

To: 'Peter Champion'

Subject: RE: BR/119/14/DOC

Dear Mr Champion,

Firstly to confirm what I said on the phone. You can implement either BR/71/12 or BR/58/13 but you need to ensure that the conditions are discharged on whichever you propose to implement.

I have checked and you can submit an NMA at the same time as a discharge of conditions (DOC). However, I am unsure whether we can attach a condition to an NMA. I have checked the National Planning Policy Guidance but cannot see where this is stated. Please advise where you read this.

Your final point should be directed to Building Control.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [mailto:]

Sent: 21 August 2014 10:29

To: Simon Davis

Subject: RE: BR/119/14/DOC

Dear Mr Davis,

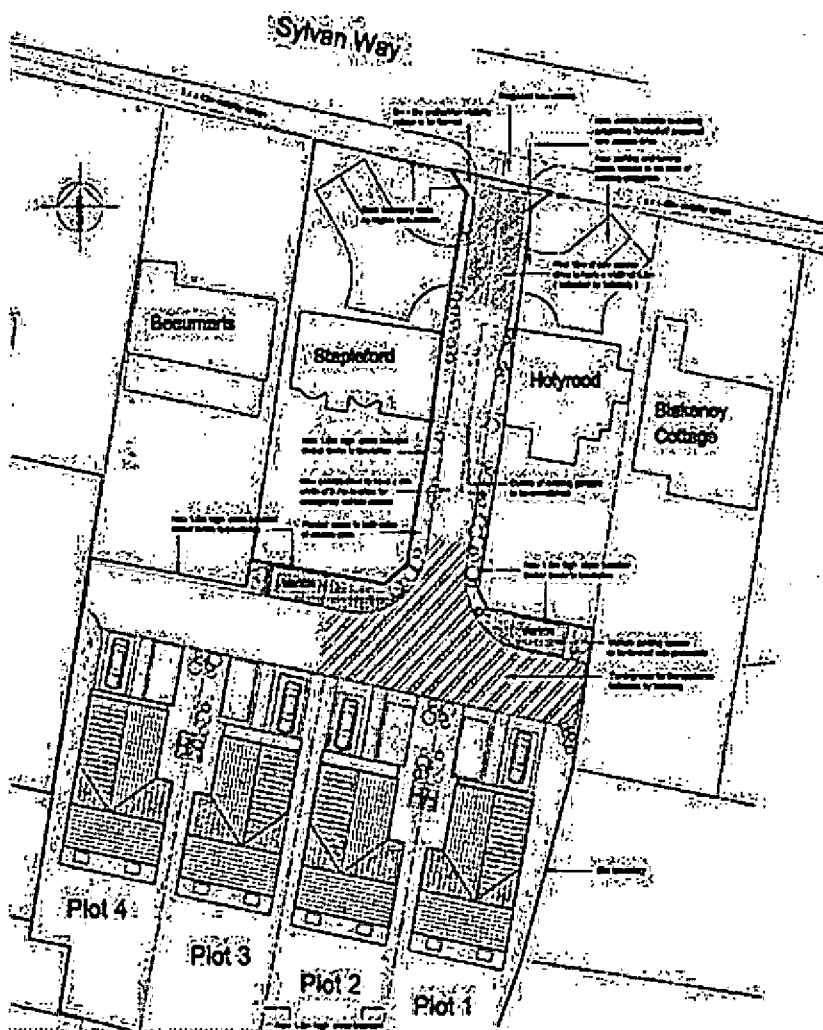
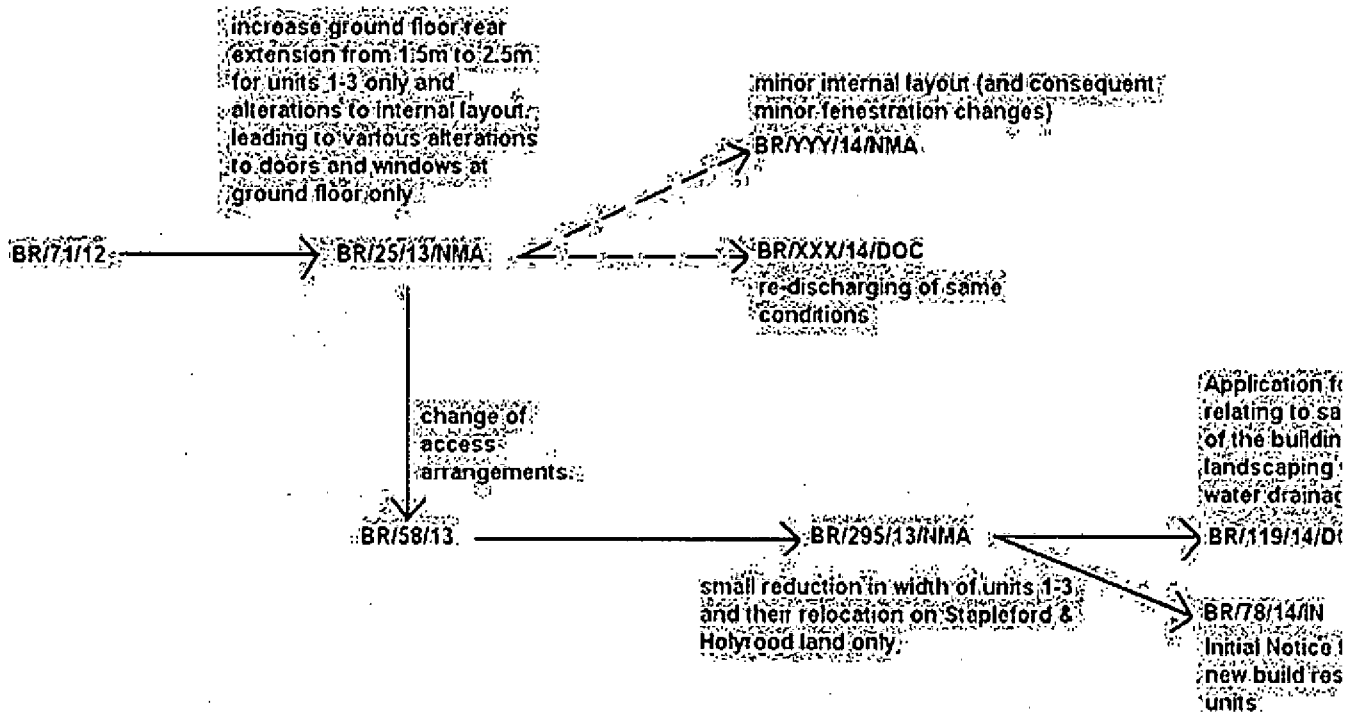
Thanks for considering this and calling me today, to say that I am able to implement BR/71/12 (as modified by NMA). I have re-done my "consent map" below to illustrate because I shall need a final small NMA, and I am wondering which comes first, the NMA, or the DOC, or can they even be done in parallel?

(In one way it is fortuitous to be able to re-discharge the materials condition, because shortly after I had done it the suppliers said that particular brick is unobtainable in any quantity)

Also, this may be a way to solve the issue of our earlier discussion regarding a phased build, because, as I understand it, under an NMA the LPA can insert a condition, and we could insert a condition that a phased build shall only be done in a certain manner, i.e. the way we had defined it?

And finally, although this may be one for the guys in B.C., do I have to make a separate, repeat Initial Notice for Building Control, even though no material changes to the houses? This would be unfortunate, because I had just got in "under the wire" of the April deadline for the new thermal regulations....

Kind regards,



original BR/71/12 - access via both garages



MMA BR/58/13 - access solely via rear

-----Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 20 August 2014 17:24

To: 'Peter Champion'

Subject: RE: BR/119/14/DOC

Mr Champion,

I am on reception duty between 9 and 12 tomorrow morning. Come along and ask to speak to the duty planner.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [mailto:]

Sent: 20 August 2014 16:48

To: Simon Davis

Subject: RE: BR/119/14/DOC

Dear Mr Davis,

I would much appreciate it if you could spare 10 mins (tomorrow morning?) to sit with me to discuss this, and I've put together an image below which aims to express the situation with the various consents.

I daresay you are correct, and I realise that guidance notes do not replace an Act, but I'm confused because the "Planning Guidance" on Planning Portal following seems to say:

1. that BR/71/12 "*remains intact and unamended*" after my MMA BR/58/13. Seems to imply I could implement the NMA'd BR/71/12
2. that if I did make a further MMA, to change the access back, then it would not contain conditions to be discharged, because "*they have already been discharged*".

From: (underlining in extract is mine)

<http://planningguidance.planningportal.gov.uk/blog/guidance/flexible-options/amending-the-conditions-attached-to-a-permission-including-seeking-minor-material-amendments-application-under-section-73-tcpa-1990/>

What is the effect of a grant of permission?

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Further information about conditions can be found in the guidance for use of planning conditions.

Kind regards,
Peter Champion

-----Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 19 August 2014 10:14

To: 'Peter Champion'

Subject: RE: BR/119/14/DOC

Dear Mr Champion,

In theory, you would need to re discharge the conditions. However, I consider it very unlikely that we would take any kind of enforcement action if you did not re-discharge them.

Kind Regards

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From: Peter Champion [mailto: [REDACTED]]

Sent: 19 August 2014 09:54

To: Simon Davis

Subject: RE: BR/119/14/DOC

Dear Mr Davis,

Oh dear. At least we should be able to add in the bit about phasing the build that we had discussed.

But do the discharged Drainage and Landscape design conditions transfer across? There are only minor positioning changes of course.

Kind regards,

-----Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 19 August 2014 09:41

To: 'Peter Champion'

Subject: RE: BR/119/14/DOC

Dear Mr Champion,

Unfortunately, the MMA effectively altered the planning permission and you will therefore need to submit a new MMA to revert back to the original scheme.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [mailto: [REDACTED]]

Sent: 18 August 2014 18:44

To: Simon Davis
Subject: RE: BR/119/14/DOC

Dear Mr Davis,

The original consented (at Appeal) scheme, BR/71/12, had the access road going through both garages, of the properties Stapleford and Holyrood, as shown in the extracts from the Site Plans, below for ease of reference. This has always been the most satisfactory location for the access road, replacing as it would both driveways and presenting a single shared access onto Sylvan Way.

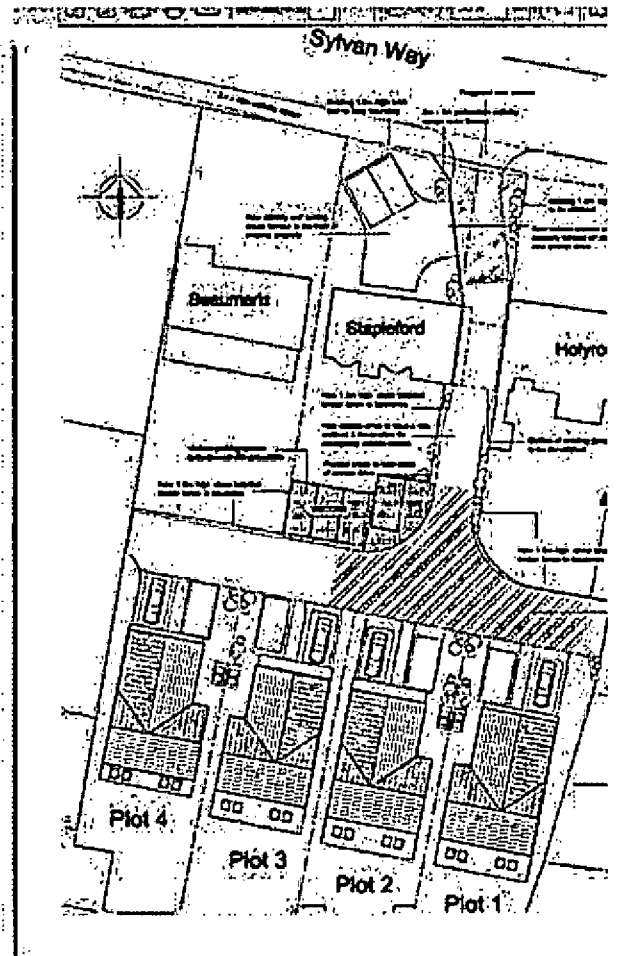
However, because I was unable to agree commercial terms for the driveway/garage of Holyrood, I had to modify it last year by MMA (BR/58/13), to route the access via only the Stapleford property. And it is that scheme that I was just about to implement.

However, I now find I may be able after all to include the driveway/garage of Holyrood. So my question is, although it required a MMA to move the access way, does it require a further MMA to move it back again? Or, as I'm hoping, can I base my final small NMA changes on the original 2-garage scheme, BR/71/12, since there is nothing material that hasn't already been considered and approved?

Kind regards,



original BR/71/12 - access via both garages



MMA BR/58/13 - access solely via

From: **Simon Davis** <Simon.Davis@arun.gov.uk>

Date: Mon, Jul 28, 2014 at 9:14 AM

Subject: RE: BR/119/14/DOC

To: Peter Champion <>

Dear Mr Champion,

Ok I will get the error corrected on our system.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [mailto:

Sent: 25 July 2014 16:45

To: Simon Davis

Subject: RE: BR/119/14/DOC

Dear Mr Davis,

As promised, attached is scan of the 4-house Obligation. All the pages are there, but I managed to get the second page of Schedule 1 out of order.

Kind regards,

-----Original Message-----

From: Peter Champion [mailto:

Sent: 25 July 2014 10:09

To: Simon Davis
Subject: RE: BR/119/14/DOC

When back at desk later today will scan over first few pages at least.
Peter

(sent from mobile)

On 25 Jul 2014 09:43, "Simon Davis" <Simon.Davis@arun.gov.uk> wrote:

Dear Mr Champion,

I will discuss with our solicitor. However, notwithstanding the attached email, I wonder do you have a copy of the actual signed 106?

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [mailto:
Sent: 24 July 2014 16:18
To: Simon Davis
Subject: RE: BR/119/14/DOC

Dear Mr Davis,

Thanks for checking this, that such work does trigger the S106 payment being due, and I do of course accept Mr Jones' decision on it.

However, in seeking to double-check the amount, etc of the S106 on the web site, I see that the wrong S106 seems to have got lodged there.

BR/71/12 - this is the root consent of what I am implementing, four new houses. But the S106 agreement that is posted there is the £12,584 one for six new houses that is associated with the alternative scheme I failed at Appeal with: BR/207/12

BR/207/12 - this failed alternative scheme would have demolished one house, replacing it with two new ones, so a total of six new houses. This is where the £12,584 agreement should be lodged.

Attached is an email from Mr Jones containing the final draft of the S106 in the amount of £8,832 (four houses).

I hope I have made the filing error clear, and I trust someone will be able easily to sort it out.

Kind regards,



-----Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 23 July 2014 11:00

To: Peter Champion

Subject: RE: BR/119/14/DOC

Dear Mr Champion,

I have received advice from our solicitor on this subject and I summarise as follows:

1. The agreement [as dated July 2012 but actually completed on 9 October 2012] requires payment "on or before start of development" (Clause 5). So the works proposed i.e. demolition & access construction start the development, so payment is due from the date of these works.
2. Because there is no special definition in the agreement for "start" or "commencement" [as there is in some agreements], development is commenced when certain "material operations", as so described, and as so listed in S56 Town and Country Planning Act 1990 happen (EPL Vol2 para 56).
3. Under S56 a material operation sufficient to start a development includes at S56(4) (aa) "demolition of a building" and (d) "any operation in the course of laying out or constructing a road" i.e. site access.
4. This, as the developer says, is demolition and work needed to "provide the access" to the development site, so is "comprised in the development".

5. Arguing about PD is not necessary, because indeed, many of the S56 "material operations" do not need any form of planning permission at all, let alone PD. Further the bEPL says that PD authorised development can still be works implementing a planning permission (EPL Vol2 para 56.14 citing [1996] JPL p 65)

Therefore I confirm that the works as proposed will trigger the payment.

Kind Regards

Simon J Davis MRTPI, Senior Planning Officer, Development Control

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From: Peter Champion [<mailto:> [REDACTED]]
Sent: 11 July 2014 20:12
To: Simon Davis
Subject: RE: BR/119/14/DOC

Dear Mr Davis,

I will be sure to do that, thanks.

The permission I am implementing involves, to provide the access, demolishing the garage and taking some 4 feet off of the width of the frontage house "Stapleford", as per the attached drawing. And I attach the site plan for convenience.

I wish to commence work on this reduction of Stapleford very soon, several months in advance of the commencement of the main works, and my question is whether this work to Stapleford will trigger the payment of the affordable housing payment? I am rather hoping not, since I think it may be work that could have been done without planning permission anyway.

Could you take a view on this, or is it one for Delwyn Jones?

Kind regards,

① CHANGES TO INTERNAL LAYOUT / FURNISHING:

PLOT 3 - No new flat windows, avoidance to GF roofline - less windows

PLOT 2 - As above

PLOT 1+4 - No new flat windows, avoidance to GF roofline - less windows

② Δ TO ACCESS TO REAR: OK.

SUGGEST Δ TO USE REAR SPACES: ~~FOR A BETTER TREE~~ (ONE COULD TO TREE TO BE ^{REMOVED} ~~REMOVED~~)

③ ~~TZ EXTENSION~~ TO 1m EXTENSION TO REAR OF PLOT 4 TO MATCH 1-3: IMPACT ON SANDY COODE? *

④ ROOF OF REAR 'EXTASIONS' TO BE FLAT WITH SINGLE CANTILEN:

LD OK AS REDUCES IMPACT ON SANDY COODE.

⑤ SWAPPING OF DESIGN TYPES: OK NO OBSERV.

⑥ Δ CASE OF PLOTS 4+1 TO HIPPO: OK NO OBSERV.

* BUT WITHIN 1m DISTANCE AND
LESS IMPACT DUE TO Δ FROM PITCHED
TO FLAT ROOF.

