

Arun District Council
Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

Your ref: PP-08500984
13 February 2020

Dear Mrs Gardner

44 Ferringham Lane. Ferring BN12 5LU

This letter accompanies an application for the discharge of condition 03 of planning approval FG/115/17 which granted full planning permission for the erection of 4 no. bungalows on this site.

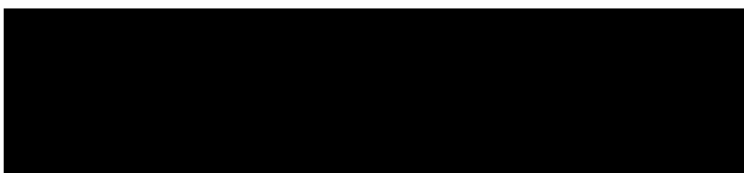
Condition 03 states:

No part of the development shall be first occupied until visibility splays of 2.0 x 43 metres to the south of the site and 2.0 x 39 metres to the north of the site have been provided at the site vehicular access onto Ferringham Lane in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

The details required by the condition cannot be provided. There is no approved drawing indicating the required splays, nor does the red edged application site extend beyond the existing driveway. It would appear, that in order to provide the splays, private land in third party ownership, outside the application site, would be required.

A similar condition was imposed on the earlier outline permission that was granted on appeal (FG/69/16). Referring back to that outline application, again there is no drawing and the accompanying transport statement merely includes photographs from the existing access point with the comment that the splays can be achieved and secured by a Grampian condition. WSCC in its responses to the application comment that the splays should be demonstrated to be achievable on land within the applicant's control and that the suitability of a Grampian condition should be considered by the LPA. The officer's Committee report acknowledges that details of visibility splays have not been submitted and as such, a condition is suggested requiring the submission, approval and



implementation of these prior to the occupation of the site. Of course, the application was refused at Committee and then granted on appeal. The Inspector does not appear to consider the issue of the visibility and merely imposes the condition suggested in the Committee report.

This application therefore seeks the discharge of the condition on the basis that the details cannot be provided/implemented. Advice on the use of conditions is contained in the Planning Practice Guidance as well as in paragraph 55 of the NPPF. The advice makes it clear that any condition should satisfy the six tests of:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Paragraph 009 of the PPG then provides specific advice on conditions requiring works on land that is not controlled by the applicant. It states that such conditions often fail the tests of reasonableness and enforceability. It goes on to state that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

In this case, there is no prospect of the splays being achieved across third party land. The condition has therefore been unreasonably imposed. Furthermore, if the development went ahead, at the point of occupation of the dwellings, the condition would be unenforceable. On this basis, it is submitted that the condition does not meet the tests and is ultra vires.

It is therefore requested that the application is approved, confirming that the condition is discharged, and that the development can proceed unencumbered by the requirement to provide the splays. The implementation of the permission is, of course, subject to compliance with all other conditions and those details already approved in respect of the relevant pre-commencement conditions.

I trust you have all the information necessary to consider this application but if you require anything further then please do not hesitate to contact me.

Yours sincerely

Dawn Appleton

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Chartered Town Planner

