

Recommendation Report for Removal of a Planning Obligation**REF NO:** FG/71/13/PO**LOCATION:** Hangleton Farm
Hangleton Lane
Ferring**PROPOSAL:** Application for the Modification of Planning Obligation Application dated 27th May 1983 under planning reference FG/21/83 relating to occupancy**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	The application requests the modification of a Planning Obligation made under S52 of the Town and Country Planning Act 1971 to enable the occupation of the dwelling to be linked to part of the original holding rather than the whole site. The accommodation comprises 7 bedrooms, a sitting room, kitchen, hallway, toilet and bathroom.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Dark stained ranch style fencing to frontage approximately 1.2m high.
SITE CHARACTERISTICS	Detached property with white painted elevations and plain tile roof. Located close to Hangleton Lane frontage.
CHARACTER OF LOCALITY	Predominantly rural. The building is located within a complex of stables and livery buildings.

RELEVANT SITE HISTORY

FG/21/83	Change of use of existing farm building to single storey dwelling for livery stable owner	ApproveConditionally 07-06-1983
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REPRESENTATIONS**Representations received:**

Ferring Parish Council

Objection. The use of the land north of the A259 is agricultural not residential. Original conditions should apply. Would set a dangerous precedence.

7 letters of objection - Horses will become homeless if animal charity takes over site.Small lane cannot withstand traffic.

Comments on Representations received:

It is not intended to remove the restrictions on the occupancy, but to split the unit into 2 with a dwelling restricted to occupation by persons employed at both of the respective holdings.

Sufficient and reasoned justifications are put forward for such amendments and such applications can be supported.

The loss of stabling and impact on traffic generation cannot be considered as part of this application.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

You have these alternatives :-

(1) grant the application via a deed per EPL Vol 2 para 106.70 which would be the orthodox way of proceeding

(2) grant via S106A and rely on estoppel to effectively ensure we do not enforce it in future which would be practical and effective in my view

(3) refuse and see if they appeal and under which procedure. Strictly an appeal should be under S84 LPA 1925 to Lands Tribunal so we can defend as invalid any appeal to PINS.

Criteria

Strictly the tests are those identified in S84 LPA 1984 as S106A and "useful purpose" does not apply to cases pre 9/11/1992 but for practical purposes I think you can use "useful purpose".

The Determination in this Case.

It may be that County Highways no longer back this age restriction but it may still serve a useful purpose if there is evidence to show (judged by you as a planner) that there is another planning ground for keeping the age restriction eg lack of amenity open space, adverse affect on amenity from mixed age groups, discharge or variation will mean a loss of affordable housing for a sector of the population.

I suggest in this case that there are (no) useful purpose(s) identified namely so you can/not refuse.

If the land is still within the countryside and outside the built up area boundary, as you say, the policies, both national and local still apply to require protection of the countryside from dwellings and buildings , lacking an agricultural or rural use justification.

If the applicant succeeds in making a case for modification based on inability to sell the livery stables or the dwelling with an extremely limiting condition of "occupation for livery stable staff at Hangleton Farm only", then a case arises for modification (but not discharge) so as to allow occupation by those engaged in agriculture in the locality per 10/897 Annex item for a standard condition /terms of planning obligation.

Comments on Consultation responses:

Comments noted. The first suggested alternative is considered the most appropriate. Restricting the use via a modification to restrict to agricultural use would not be appropriate since equestrian use is not classed as agricultural.

POLICY CONTEXT

Designation applicable to site:

Outside built-up area boundary

Planning Obligation

Right of Way

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN3](#)
[GEN7](#)

Protection of the Countryside
The Form of New Development

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced weight.

The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012

and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published.

Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption.

At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

It is considered that the modification of this Planning Obligation is in accordance with policy. The proposal relates to modification of an existing Section 106 agreement so that the occupancy of

the property relates to part of the original holding. The applicant has been trying to sell the existing livery business without success. 3 residential units exist at the site. The main dwelling occupied by the applicant is the subject of FG/69/13/CLE for use as a single dwelling house linked to the equestrian use of the land. The other 2 properties comprise the application unit and the other part of the building which is the subject of FG/69/13/CLE and comprises FG/74/13/PO .

The Local Planning Authority would be concerned if the Obligation was revoked since it is considered that the equestrian use of the land will continue to require on site accommodation and if this building was released from restricted occupation there would be increased demand for further provision for such accommodation on the site in a rural area where residential development is strictly controlled. Modification of the Obligation to facilitate splitting the existing holding into 2 units whilst retaining an occupancy restriction relating to the use of the reduced holding is considered reasonable and would assist in the long term retention of the equestrian use of the land.

It is therefore recommended that the modification of the Obligation is approved. The planning condition may also require variation following modification of the Obligation.

RECOMMENDATION

APPROVE

- 1 **INFORMATIVE:** This relates to the Modification (Deed of Variation) to the Obligation dated 09-01-2014