

Recommendation Report for Removal of a Planning Obligation

REF NO: FP/202/18/PO

LOCATION: Site 6, North of Felpham
Bognor Regis

PROPOSAL: Application to modify a planning obligation dated 18th September 2006 relating to FP/92/04/ for the variation of the definition of 'sports equipment contribution' to 'equipment contribution' and change what the sum can be used for, from 'the provision of sports equipment on the site' to the 'provision of equipment on the site.'

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Application to modify the Section 106 Agreement, dated 18th September 2006, which accompanied planning permission FP/92/04/ for the variation of the definition of 'sports equipment' and change what the sum ascribed for sports equipment can be used for at Site 6 at Felpham.
SITE AREA	The total site area of Site 6, Felpham (Blake's Mead) is 61.92ha
TOPOGRAPHY	Predominantly flat
TREES	There are trees subject to a Tree Preservation Order (TPO) along part of the southern boundary of Site 6 (Blake's Mead) in Felpham.
BOUNDARY TREATMENT	Blake's Mead is bounded by acoustic fencing along part of the northern boundary with the Bognor Regis Northern Relief Road; close boarded fencing in rear gardens along the southern, eastern and part of the western boundaries; and by woodland on part of the western boundary.
SITE CHARACTERISTICS	Former agricultural land now under comprehensive residential development. The site known as Blake's Mead benefits from planning permission (outline permission and approval of reserved matters) for residential development and associated leisure, recreational and retail uses forming part of policy Site 6, which also included the construction of the Bognor Regis Northern Relief Road from the A259 at Felpham to the A29.
CHARACTER OF LOCALITY	The site adjoins the urban edge of Felpham and lies to the south of the hamlet of Flansham now separated by the Bognor Regis Northern Relief Road and remaining fields beyond.

RELEVANT SITE HISTORY

FP/92/04/	Outline Application for residential development and	Called In by DCLG/SD
		REPORT(ODB)

associated uses forming part of policy site 6. Construction of the Bognor Regis Northern Relief Road from A259 at Felpham to A29 (This application is accompanied by an environmental statement and affects a public right of way)

Appeal: Allowed+Conditions
22-11-06

FP/128/09/	Reserved Matters application following outline planning permission FP/92/04 relating to phase E of residential development for 115 dwellings with associated residential roads, drainage works and public open space - This application affects a Public Right of Way	ApproveConditionally 03-12-09
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Y/68/09/	Reserved matters application pursuant to outline permission FP/92/04 Condition 1 (j) and (l) (part) relating to details of the sports changing facilities, layout of sports pitches, safety fencing	ApproveConditionally 14-01-10
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FP/251/07/	Reserved Matters application pursuant to outline planning permission FP/92/04 relating to 3 phases of residential development for 464 dwellings, and up to 217sqm retail floorspace, with associated residential roads, drainage works and public open space - This application affects a Public Right of Way	App Cond with S106 18-09-08
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FP/151/11/	Application to amend Reserved Matters application pursuant to outline planning permission FP/92/04/ relating to the community building with associated sports pitches, access, parking and landscaping reference FP/166/09/	ApproveConditionally 03-02-12
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AL/113/09/	Alterations to the approved road design forming a 500m length of the BRNRR - Reserved Matter Application Ref: FP/220/07 (This application affects a Public Right of Way & also falls within the parish of Yapton)	ApproveConditionally 03-02-10
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FP/227/11/	Development of 112 no. 5,4,3,2 & 1 bed houses & flats with associated parking & landscaping. Amendment to previous approval FP/237/08/	ApproveConditionally 23-03-12
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FP/237/08/	Amendment to provide changes to 200 residential units previously approved in accordance with Reserved	App Cond with S106 03-03-09
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Matters application FP/251/07 pursuant to outline planning permission FP/92/04 relating to three phases of residential development for 464 dwellings, and up to 217sqm retail floor space with associated residential roads, drainage works and public open space - This application also falls within the parish of Yapton

FP/220/07/	Approval of reserved matters following outline application FP/92/04 - The eastern section of the Bognor Regis Northern Relief Road between the A259 at Felpham to the A29 & associated engineering works (This application affects a public right of way & also falls within the parishes of Yapton, Middleton, Bognor Regis, Aldingbourne & Bersted)	ApproveConditionally 15-01-09
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N/A

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Felpham Parish Council
Felpham Parish Council:
No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

The response from the Parish Council is noted.

CONSULTATION RESPONSES RECEIVED:

ADC NEIGHBOURHOOD SERVICES:
No objection.

COMMENTS ON CONSULTATION RESPONSES:

Comment noted.

POLICY CONTEXT

Designation applicable to site:
Within Built-Up Area
Site 6

DEVELOPMENT PLAN POLICES

- HWBSP1 HWB SP1 Health and Wellbeing
- INFSP1 INF SP1 Infrastructure provision and implementation
- OSRDM1 Protection of open space,outdoor sport,comm& rec facilities

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2011-31, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

The Felpham Neighbourhood Plan has been made but there are considered to be no relevant policies in the determination of this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

The site benefits from outline planning permission under reference FP/92/04/, which was allowed on appeal, and a Section 106 Agreement which accompanied the permission; together with a number of reserved matters approvals.

The Section 106 Agreement was agreed to deliver various community facilities comprising public open space, sports provision, community arts, changing facilities and a community building. These facilities are provided in accordance with the Council's planning policy for both the new residents of the

development and the existing community. The facilities being provided have been transferred to the District Council, with the exception of the new community building which has been transferred to Felpham Parish Council.

The final figures for the Felpham Community Centre (S106 sums):

- The community hall contribution is £37,334.42
- The Equipment contribution has been re-calculated and is now £39,637.59

These are the sums that are due to Felpham Parish Council.

The District Council has taken lease of part of the community centre from Felpham Parish Council. Part of this arrangement is that a commuted sum is paid over to the Parish Council. As it stands under the Section 106 Agreement the use of the commuted sum is restricted, in part, to sports equipment. The Parish Council had previously asked for this to change to use towards the provision of equipment generally on the site.

The applicant is applying to vary the definition in the Section 106 Agreement of 'sports equipment' to 'equipment' contribution and in order to change what the sum can be used for, from 'the provision of sports equipment on the site' to 'the provision of equipment on the site'. The change is required because the centre does not include a sports hall or sports facilities and the amendment would allow the contribution to be used for general equipment for the hall, rather than be restricted to sports equipment. The Group Head of Neighbourhood Services has been consulted and raised no objection to the amended use for the monies.

The proposed variation would be in accordance with Policy OSR DM1 of the Arun District Local Plan (2011-2031). Therefore, it is recommended that the application is approved and the Section 106 Agreement is varied in accordance with the application.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE