

Recommendation Report for Removal of a Planning Obligation

REF NO: LU/337/20/PO

LOCATION: Hampton Park
Toddington Lane
Littlehampton

PROPOSAL: Application for the modification of obligations on the Section 106 Agreement dated 23/1/13 (as amended) linked to LU/47/11 (as amended) - To extend the triggers for provision of the 'Southern By Pass and Bridge Works' from the occupation of the 350th dwelling to the 450th dwelling and to amend the definition of 'The Fitzalan link Stage 2' to include the A259 Roundabout.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This planning obligation (PO) application is to modify the Section 106 Agreement (as amended) imposed on outline planning permission LU/47/11 (as amended) to enable the occupation threshold for the delivery of the southern section of the Lyminster Bypass and the Bridge Works to be amended from the 350th occupation to the 450th occupation to enable occupations between July 2020 and December 2021; and to amend the definition of 'The Fitzalan link Stage 2' to include the A259 Roundabout instead of including the roundabout in the works for the southern section of the Lyminster Bypass. A Deed of Variation has been prepared.
SITE AREA	Hampton Park comprises 85 hectares.
TOPOGRAPHY	Hampton Park is predominantly flat and stands on a raised plateau approximately 2-3 metres above the flood plain, situated between the South Downs National Park to the north, and the coastal plain to the south.
TREES	There are a number of trees afforded Statutory Protection as groups (G1 - G4 inclusive) under Tree Preservation Order (TPO/LU/1/13) in the Central Wetland Area at Hampton Park; predominantly weeping willow, silver birch and Caucasian wingnut. There are clusters of existing trees and hedgerows growing elsewhere at Hampton Park but there are none of any significance other than those in the Central Wetland Area.
BOUNDARY TREATMENT	The south coast mainline railway forms the southern boundary of the site. Toddington Lane crosses north over the railway and connects, via Mill Lane, to the Lyminster Road. The residential area of Toddington is located south of the railway and the separate village of Lyminster lies to the north, whilst the northern part of the residential area of Wick is situated to the west of the site. The A284, which is the main road serving Littlehampton from the A27, passes to the west of the site through Lyminster and Wick and then south to Littlehampton

Town Centre.

The Black Ditch watercourse follows the northern site boundary. Low lying land within the site south of the Black Ditch comprises grazing marshes of biodiversity value. Land to the north of the Black Ditch, beyond the site boundary, is arable land with large-scale fields and a few defining hedgerows.

There are two main public rights of way near the site. The first is a bridleway which runs east to west along a track between Lyminster and Poling. This route is less than 300 metres to the north of the Black Ditch and the site boundary at its nearest point. A public footpath connects the eastern part of the site to this bridleway. This footpath passes through the site before joining Toddington Lane near the railway line.

SITE CHARACTERISTICS

The site is part of a former nursery which was previously occupied by a variety of uses including horticulture, packaging and distribution and office uses. All of the glasshouses and warehouses and the hard-standings have been removed from the site. The site sub-divides into two general areas, being the developed area to the immediate north of the railway line, mainly to the north of Toddington Lane; and the undeveloped area being the low-lying grazing marshes to the north and east of the developed area extending up to the Black Ditch watercourse. The undeveloped area serves as part of the functional flood plain.

The whole site is currently being re-developed as an urban extension, known as North Littlehampton Strategic Development Area (SDA) and marketed as Hampton Park. The western part of the site has been developed with the construction of approximately 345 houses and apartments by Persimmon Homes (Phases 1 and 2) and by Bovis Homes (the Bovis Phase).

CHARACTER OF LOCALITY

The already developed part of Hampton Park (Persimmon Homes Phases 1 and 2 and the Bovis development) extends little further north than existing housing development to the west around Mill Lane and Lyminster Road, including Hearnfield Road, Fullers Walk and Granary Way. The latter two roads are culs-de-sac which immediately adjoin the western boundary of the site. To the north of Fullers Walk is a household recycling facility to the west of which are allotments and a residential caravan park.

To the south of the south coast mainline railway line is the Watersmead Business Park, accommodating the Body Shop headquarters amongst its occupiers. The majority of the land between the railway line and the A259 Worthing Road is the residential area of Toddington Park, including the Eden Park development of about 400 dwellings. To the west of the

Toddington Park area is open land in a number of uses, including allotments, the Wick Town Football Club site, and a recreation ground.

The Black Ditch watercourse follows the northern site boundary. Low-lying land within the site south of the Black Ditch comprises grazing marshes of biodiversity value. Land to the north of the Black Ditch, beyond the site boundary, is intensively cultivated arable land with large-scale fields and a few defining hedgerows.

RELEVANT SITE HISTORY

LU/47/11/	Outline application with some matters reserved for mixed use development comprising: demolition of existing buildings and structures, up to 1,260 residential dwellings (out of a potential 1,460 dwelling masterplan), up to 13,000 sqm of B1 employment floorspace (including 3,000 sqm Enterprise Centre), up to 3,500 sqm of Class A local facilities, a 100 bed hotel, 60 bed care home, a new 2 Form Entry primary school, community centre, youth and leisure facilities, combined heat & power plant, extension to existing household recycling centre, landscaping, replacement and additional allotments, multi-functional green infrastructure including sports pitches (& associated changing facilities), informal open space, children's play areas, primary vehicular access from a new access from the A259 bridging over the railway line with additional access from Mill Lane & Toddington Lane. This application is the subject of an Environmental Impact Assessment & a departure from the development plan. This application affects a public right of way.	App Cond with S106 23-01-13
LU/164/20/PO	Application to amend the obligation on the Section 106 dated 23rd January 2013 under outline planning permission LU/47/11, to increase the occupation triggers from 350 to 450 for the delivery of the southern section of the Lymminster Bypass, the Bridge Works and the Internal Distributor Road.	Withdrawn 23-11-20
LU/63/11/	Outline Application for the construction of the "Fitzalan Link Road" between the A259 Worthing Road & the East Street/Fitzalan Road roundabout - This application affects a Public Right of Way	ApproveConditionally 06-06-12

LU/234/16/RES	Application for reserved matters relating to access, appearance, landscaping, layout and scale of the previously approved LU/63/11/. This application affects a Public Right of Way	ApproveConditionally 19-10-17
LU/278/17/RES	Approval of Reserved Matters following Outline Permission LU/47/11 for Construction of the southern section of the Lyminster Bypass, including northern and southern roundabouts, surface water drainage and landscaping. Departure from the Development Plan & affects a Public Right of Way.	ApproveConditionally 04-10-18
LU/182/15/PL	Variation of conditions 4, 6, 7, 8, 39 & 42 imposed under planning reference LU/47/11/ relating to list of plans, illustrative masterplan, CHP plant building, Design Statement, bus stops & traffic improvements.	App Cond with S106 03-10-18
LU/346/14/PL	Application for variation of Conditions 11, 17, 18, 20 and 30 imposed under LU/47/11 relating to maintenance of watercourse, scheme for creation of central wetland area, scheme for details of bridges and buffer-zones to on-site watercourses, ecological management plan and scheme for hydrants.	ApproveConditionally 20-02-15

The previous PO application (LU/164/20/PO) was withdrawn on 23rd November 2020, as the application also included amendments to the Affordable Housing Scheme and the delivery of a Locally Equipped Area of Play (a LEAP) on Persimmon Homes Phase 2 development at Hampton Park. The current PO application deals solely with changes to the timeframe for the delivery of the highway works.

REPRESENTATIONS

LITTLEHAMPTON TOWN COUNCIL

No objection.

Five letters of representation have been received from local residents objecting to the proposed amendment to the infrastructure triggers on the following grounds:

- There have been enough delays; get on and build the Bypass.
- It would be good if the developer complied with the original Section 106 Agreement.
- Considerable strain would be placed on the existing highway infrastructure.
- Severe delays and possible traffic collisions due to increased traffic and narrow roads in Toddington.
- How much longer is Eden Park going to be used as a rat run.
- Incomplete road projects have resulted in Mill Lane / Toddington Lane becoming a fly tipping haven.
- A public footpath should be reinstated running north to the Black Ditch.

COMMENTS ON REPRESENTATIONS RECEIVED:

All planning related comments are noted and covered in the Conclusions section of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

LOCAL HIGHWAY AUTHORITY:

No objection.

This is supported by the traffic impact assessment undertaken by consultants on behalf of Persimmon which did not raise any particular issues on a technical level. With regard to the Fitzalan Link Road Phase 2 works, the trigger point appears to remain at the 400th occupation but has the A259 roundabout included within its description that previously formed part of the Southern By-Pass works. However for both (and to ensure that both are built in a logical sequence), 'back-stop' dates are now proposed in the proposed Deed of Variation (DoV) and the plans showing both schemes have been amended to fall in-line with the wording in the Legal Agreement and planning application description.

The draft Deed of Variation (DoV) demonstrates a logical and legally binding sequence for the highways works to be completed, as shown on submitted drawings: 'Legal Agreement Plan's 5 and 9 (both revision P2) dated December 2020' (i.e. Southern By-Pass and Fitzalan Link Road). These drawings should form part of the DoV. As proposed, there does not appear to be any adverse impact on the other obligations as a consequence of the changes proposed as part of this planning application.

COMMENTS ON CONSULTATION RESPONSES:

All planning related comments are noted and covered in the Conclusions section of this report.

POLICY CONTEXT

Designation applicable to site:

Within the built-up area boundary (BUAB) in the Local Plan.

Within the North Littlehampton Strategic Development Area.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

INFSP1	INF SP1 Infrastructure provision and implementation
QESP1	QE SP1 Quality of the Environment
TDM1	T DM1 Sustainable Travel and Public Rights of Way
TSP1	T SP1 Transport and Development
TSP3	T SP3 Safeguarding to Main Road Network

[Littlehampton Neighbourhood Plan 2014 Policy 18](#) Fitzalan Link Road

Littlehampton Neighbourhood Plan 2014 Policy 19 Lyminster Bypass & the A27 at Arundel

Littlehampton Neighbourhood Plan 2014 Policy 2 A Spatial Plan for the Town

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011-2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan.

The Littlehampton Neighbourhood Plan (NP) was made on 5th November 2014. Relevant Littlehampton NP policies have been taken into account and are addressed in the 'Conclusions' section of this report.

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."

Section 70(2) of TCPA provides that:-

(2) In dealing with an application for planning permission the authority shall have regard to:

- (a) the provisions of the development plan, so far as material to the application, a post-examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

The proposal to modify the Section 106 Agreement imposed on outline planning permission LU/47/11 to increase the occupation triggers from 350th dwelling to the 450th dwelling for the delivery of the southern section of the Lyminster Bypass and the Bridge Works and to amend the definition of 'The Fitzalan link Stage 2' to include the A259 Roundabout is considered to comply with the relevant transport policies in the Development Plan.

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

PRINCIPLE

The principle of the development was approved at the outline planning permission stage (LU/47/11) which was granted on 23rd January 2013. The outline planning permission was approved under LU/47/11, which was amended by LU/346/14/PL and LU/182/15/PL. The original Section 106

Agreement, which was imposed on the outline planning permission (LU/47/11), is dated 23rd January 2013 and the subsequent Supplemental Planning Obligation is dated 11th September 2018. There are currently five Deeds of Variation.

THE SECTION 106 AGREEMENT

The wording in the Section 106 Agreement for the delivery of the southern Bypass, Bridge Works and the Internal Distributor Road says:

(i) The definition at Clause 1 (Schedule 10) of the Principal Agreement is: "The Southern Bypass and Bridge Works" means a southern bypass and bridge including the footpath and cycleway from the Site across the railway line and including a new roundabout on the A259 and a new link to Highdown Drive shown in principle on drawing number Highways Plan 5 annexed to this Deed;

"The Fitzalan Link Stage 2 Works" means the construction of the Fitzalan Link works stage 2 from the A259 to the Academy and the realignment of Highdown Drive shown in principle on drawing number Highways Plan 9 annexed to this Deed.

(ii) Paragraph 8 of the Principal Agreement says: "The Owners covenant with the District Council and the County Council not to Occupy more than 350 Dwellings until it has first Completed (a) the Southern Bypass and Bridge Works and (b) the Internal Distributor Road".

(iii) Paragraph 12 of the Principal Agreement says: "The Owners covenant with the District Council and the County Council to complete the Fitzalan Link Stage 2 Works in accordance with details approved as part of Reserved Matters Approval pursuant to the Planning Permission immediately following the opening of the Southern Bypass and Bridge Works (and pursuant to the same construction contract) and in any event before the first Occupation of more than 400 Dwellings".

PROPOSED AMENDMENTS

This Planning Obligation (PO) application (LU/337/20/PO) proposes to amend the triggers for the delivery of the southern section of the Lyminster Bypass and the Bridge Works from the occupation of the 350th dwelling to the occupation of the 450th dwelling at Hampton Park; and to include the A259 roundabout in the Fitzalan link Stage 2 works (i.e. within the timetable for the delivery of the northern section of the Fitzalan Link Road) instead of including the roundabout in the works for the southern section of the Lyminster Bypass.

The proposed changes to the obligation comprise:

(i) New definitions shall be inserted at Clause 1 (Schedule 10) as follows:

"The Southern Bypass and Bridge Works" means a southern bypass and bridge including the footpath and cycleway from the Site across the railway line shown in principle on drawing number Highways Plan 5 annexed to this Deed;

"The Fitzalan Link Stage 2 Works" means the construction of the Fitzalan Link works stage 2 from the A259 to the Academy including a new roundabout on the A259 and the realignment of Highdown Drive and a new link to the Highdown Drive shown in principle on drawing number Highways Plan 9 annexed to this Deed;

(ii) Paragraph 8 of the Principal Agreement shall be deleted in full and replaced with the following the Principal Agreement (as varied by the deed of variation dated 11 September 2018) to be modified as follows:

8.1 The Owners covenant with the District Council and County Council not to Occupy more than 450 dwellings until it has first completed: (a) The Southern Bypass and Bridge Works and (b) the Internal

Distributor Road.

8.2 The Owners covenant to have constructed The Southern Bypass and Bridge Works and the Internal Distributor Road by the 31st December 2021."

(iii) Paragraph 12 of the Principal Agreement shall be deleted in full and replaced with the following:

12. The Owners covenant with the District Council and the County Council to complete the Fitzalan Link Stage 2 Works prior to the first Occupation of more than 450 Dwellings or by the 30th June 2021 (whichever shall be the earlier).

(iv) The Deed of Variation will include four new plans (Plan 5, Plan 9, Drawing No. PHFL-WYG-S278-LP-FL6 - Location Plan: Fitzalan Link Road (Sheet 1 of 2) and Drawing No. PHFL-WYG-S278-LP-FL7 - Location Plan: Fitzalan Link Road (Sheet 2 of 2)) to reflect the changes to the definitions in (i) above.

JUSTIFICATION FOR THE PROPOSED AMENDMENTS

Construction works on the southern section of the Lyminster Bypass and the northern section of the Fitzalan Link Road works were temporarily suspended on 25th March 2020 and re-commenced on 22nd June 2020 due to the Coronavirus (the Covid-19 pandemic). The proposed change in occupation triggers and including the delivery of the A259 roundabout with the Fitzalan Link Road would enable occupations between July 2020 and December 2021.

Delays have been caused to the delivery of the southern section of the Lyminster Bypass, the Bridge Works and the Internal Distributor Road including the protracted negotiations with Network Rail and the County Council regarding the Overbridge Agreement; the time it has taken Southern Water to construct the new rising main that will serve Hampton Park; and that there are no parcels capable of starting because of the lack of planning permissions being granted for residential developments; and there have been delays in determining planning applications due to insufficient or inadequate information being submitted to the Local Planning Authority. In addition, delays have been caused by the County Council at the detailed design stage (S38/S278) of the northern section of the Fitzalan Link Road and the southern section of the Lyminster Bypass.

IMPACT OF THE PROPOSED AMENDMENTS

Policy T SP1 of the Local Plan says: "the Council will ensure that development contributes to highway improvements. The Council will support transport and development which contributes towards new road schemes which improve north-south links between Bognor Regis and Littlehampton and the A27, to ensure that they are delivered in line with strategic growth in the District; and provides improved crossing points over the railway line to improve transport links between the coast and the A27" (Policy T SP1 (c) & (g)).

Policy T DM1 of the Local Plan says: "proposals for all new development must be located within easy access of established public transport service(s), existing pedestrian and cycle networks, the committed and aspirational cycle networks and the green infrastructure network which links the development with key destinations including places of work, education, leisure and town centres". (Policy TDM1(a))

A number of objections have been received from local residents regarding the delays to the delivery of the Bypass and the fact that additional traffic from Hampton Park would result in possible congestion and accidents on the existing narrow roads in Toddington, including Eden Park. Local residents have asked why the developer could not adhere to the occupation triggers in the Section 106 Agreement.

The Technical Note ("Traffic Impact of additional 100 dwellings on the local highway") which accompanied this application and included TRICS Trip Rates data concluded that "the additional 100

dwelling would result in an additional 36 two-way movements during the network's AM peak traffic hour, and an additional 31 two-way movements in the PM peak traffic hour, which is not material to the capacity of the junctions". The Technical Note Addendum concluded that "all junctions would continue to operate within capacity with additional traffic generated by the additional 100 dwellings above the 350 dwelling limit set out in the Section 106 Agreement. The small increases in queueing at junctions would be temporary as the construction of the Lyminster Bypass would ease congestion on the local road network. Congestion would be eased further following the construction of the dualling works on the A259."

The construction of the southern section of the Lyminster Bypass and the northern section of the Fitzalan Link Road would ensure that the new community at Hampton Park was connected to places of work, education and the town centres of Littlehampton and Bognor Regis. Hampton Park is to be served by bus services running along the Bypass and the Central Spine Road; and there are proposed new footways and cycleways which will link up with the Bypass.

It is anticipated that northern section of the Fitzalan Link Road and the A259 Roundabout would be completed by the end of May 2021 but there is a backstop to the 30th June 2021 due to Covid-19 restrictions, which would correspond with the 400th occupation; the Overbridge and the Southern Section of the Lyminster Bypass would be completed by the end of September 2021, which would correspond with the 450th occupation.

It is therefore considered reasonable and necessary to amend the triggers for the completion of the southern section of the Lyminster Bypass and the Bridge Works from the occupation of the 350th dwelling to the 450th dwelling; and to include the delivery of the A259 roundabout with the northern section of the Fitzalan Link Road instead of with the works on the Lyminster Bypass; and for all parties to work co-operatively together to ensure that there are no further slippages in the delivery of significant infrastructure to serve both Hampton Park and the wider community of Littlehampton.

It is considered that the proposed amendment to the delivery of the southern Bypass, Bridge Works and the Internal Distributor Road is acceptable as the roads would be completed by the end of September 2021 and the proposed highway works comply with Policy T SP1 and Policy T DM1 of the Local Plan.

OTHER MATTERS

A resident has requested the re-instatement of a public footpath running north to the Black Ditch. There is a requirement on the developer to re-instate all of the public footpaths that have been affected by the highway works. In addition, the parameters plan which were approved at the outline planning stage include a movement plan which identifies the provision of new footways and cycleways which will link up with the existing public rights of way network in the vicinity of Hampton Park, which the developer will need to deliver in accordance with the Section 106 Agreement.

SUMMARY

The proposal to modify the Section 106 Agreement imposed on planning permission LU/47/11 to revise the occupation threshold trigger from the 350th dwelling to the 450th dwelling for the delivery of the southern section of the Lyminster Bypass and the Bridge Works and for the A259 roundabout to be included in the Fitzalan link Stage 2 works is considered to be acceptable and it is in accordance with Policy T SP1 and Policy T DM1 of the Local Plan.

RECOMMENDATION

Therefore, it is recommended that this application is approved and the Section 106 Agreement is modified in accordance with this application by means of a Deed of Variation. The Deed of Variation has been drafted by the ADC Legal Services Team in liaison with the WSCC Legal Services Team and Persimmon Homes Legal Team.

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