

[REDACTED]

From: Amanda Scholes on behalf of Planning.Responses
Sent: 06 December 2019 09:12
To: Planning Scanning
Subject: FW: R/94/19/PL Rustington Convalescent Home

From: Anita Gardner [REDACTED]
Sent: 05 December 2019 14:18
To: Planning.Responses [REDACTED]
Subject: FW: R/94/19/PL Rustington Convalescent Home

[REDACTED]

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](#) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Charles Mills <[REDACTED]>
Sent: 05 December 2019 14:15
To: Anita Gardner <[REDACTED]>
Subject: RE: R/94/19/PL Rustington Convalescent Home

Anita

I have taken instructions from the Charity and they are content at this stage to withdraw the application. They are at least heartened by the fact that your report was recommending approval. We will hopefully come back in with an application in the new year.

Regards

Charles Mills - Partner
Planning

[REDACTED]

Daniel Watney LLP
165 Fleet Street
London EC4A 2DW

[REDACTED]

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PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

From: Anita Gardner <[REDACTED]>
Sent: Thursday, December 5, 2019 12:44 PM
To: Charles Mills <[REDACTED]>
Subject: FW: R/94/19/PL Rustington Convalescent Home

Charles,

I have re-consulted our solicitor and can advise that the Court of Appeal did not suggest that Section 96A could be used for material amendments and, therefore, since we have determined that the proposal is a material amendment we should not approve an application under Section 96A which has no consultation and minimal notification requirements.

I understand that the determination of this application has been lengthy and the funds that you have spent on getting to this point. I must say that part of the delay has been the amendment to the legal agreement was that was necessary. I also have to remind you that it was your insistence that this should have been submitted as a section 73 application and not a full planning application.

I therefore re-iterate my earlier request that the application is withdrawn or it will proceed to refusal tomorrow for the following reason:

"The proposal set out in the application, if approved, would lead to the conditions being in conflict with the operative part of the original planning permission R/258/18/PL in that the description states: to provide an additional four residential units and the consequences of proposed amendment to condition [2] would be for the development to consist of additional units. Taking into account the Court of Appeal decision in John Leslie Finney v Welsh Ministers & Others [2019] EWCA 1868 the Council does not have the power to amend the operative part of a Planning Permission as part of a Section 73 Application and, therefore, the application should be refused as the amended condition would conflict with the Planning Permission."

If you wish to withdraw the application please let me know by 5.30pm today since myself and Juan are not in the office tomorrow.

Regards

Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](#) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Charles Mills <[REDACTED]>
Sent: 04 December 2019 14:41
To: Anita Gardner [REDACTED]
Subject: RE: R/94/19/PL

Anita

Thank you for the email and the Arund DC committee guidance from 2017.

I do understand the content of the guidance but its date is relevant as it pre-dates the Court of Appeal judgement which specifically envisages being able to amend a description through a 96A. In my opinion, the context is a material issue – this application was meant to be determined by August of this year and it was in good faith that the Convalescent Home Charity submitted their application by way of a s73. The subsequent numerous extensions have brought us to where we are now and the Charity has made significant financial outlays that have resulted in irrecoverable losses.

By requesting the Court of Appeal suggested route of a 96A in the November judgement, there is no downside to Arund DC and it is to enable a development which you had written up for approval in any event. The alternative you are giving the Charity is an indeterminable timeframe and many thousands in additional costs. On this basis I would like to respectfully request that you are able to consult internally and reconsider on the basis of exceptional circumstances as they are.

Your sincerely

Charles Mills - Partner
Planning

[REDACTED]
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[REDACTED]

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PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

From: Anita Gardner [REDACTED]
Sent: Wednesday, December 4, 2019 12:11 PM
To: Charles Mills [REDACTED]
Subject: FW: R/94/19/PL

Charles,

I have spoken with our Solicitor and understand you are considering whether the way forward is to make an application under Section 96A of the TCPA 1990 for a non-material amendment to the permission, to change the description, and then to proceed with the Section 73 Application based upon the new description.

I would advise that we would not accept an amendment to the description of the application as a Non Material Amendment since it would not meet the guidance criteria we have agreed at this Council as attached, namely the first bullet point and the re-consultation with neighbours. This document is available to view on our web site in the 'Making a Planning Application' section.

I would therefore suggest the only way to progress the matter will be to withdraw the application and for it to be re-submitted as a full planning application.

Regards

Anita

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](http://www.arun.gov.uk) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Anita Gardner
Sent: 03 December 2019 15:58
To: Charles Mills [REDACTED]
Subject: RE: R/94/19/PL

Charles,

I am happy to await further discussion until the end of tomorrow.

Regards

Anita

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](http://www.arun.gov.uk) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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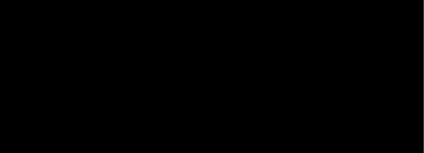
From: Charles Mills [REDACTED]
Sent: 03 December 2019 15:45
To: Anita Gardner [REDACTED]
Subject: RE: R/94/19/PL

Anita

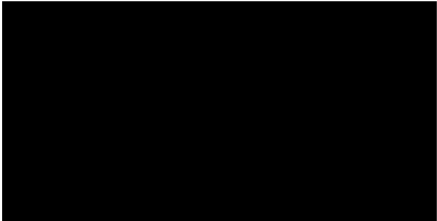
Thank you for the email. I have spoken to the Charity's solicitor on this and he has pointed out the relevant part of the judgement which allows for a way around by way of a 96a to amend the description and then use of a s73 to

amend the relevant condition. He is attempting to speak to Jeremy Cook this afternoon. Can I therefore request that we keep the application alive for a short while longer to allow for this conversation to happen?

Charles Mills - Partner
Planning



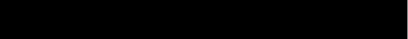
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From: Anita Gardner <
Sent: Tuesday, December 3, 2019 2:34 PM
To: Charles Mills <
Subject: RE: R/94/19/PL

Dear Charles,

You may be aware of a recent decision by the Court of Appeal in the case of John Leslie Finney v Welsh Ministers and others [2019] EWCA Civ 1868 which has changed the position in relation to applications under Section 73. I have been corresponding with Jeremy today regarding its relevance to your application and I am advised that since approval of this application would require a change to the description of the original permission so as to allow the permission be consistent then the application should be refused as Section 73 does not give the LPA the authority to amend the functional part of the permission. I had written my report and was recommending approval, however, unfortunately, since this application has not yet been determined it must comply with the decision in Finney. I therefore request that the application is withdrawn or it will unfortunately have to be determined and proceed to refusal by the end of the week.

Regards
Anita Gardner



From: Charles Mills [REDACTED]
Sent: 03 December 2019 10:37
To: Anita Gardner [REDACTED]
Subject: RE: R/94/19/PL

Anita

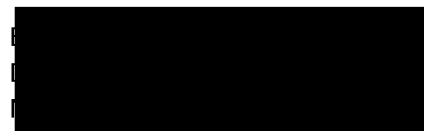
Our solicitor sent comments to Jeremy Cook yesterday. There were only a few minor ones and nothing controversial so hopefully we can engross today/tomorrow subject to any further comments from your or my client. I have asked our solicitor to call Jeremy this afternoon.

As you know it just follows the format of previous deeds of variations and effectively applies the obligations in the existing s106 agreement to the development to be authorised by the new permission so I don't foresee any issues.

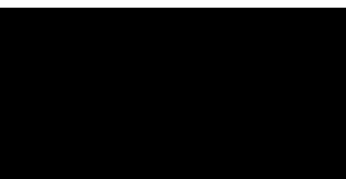
Can you let me know when you hear from Jeremy?

Many thanks

Charles Mills - Partner
Planning



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From: Anita Gardner [REDACTED]
Sent: Tuesday, December 3, 2019 9:31 AM
To: Charles Mills [REDACTED]
Subject: RE: R/94/19/PL

Charles,

I don't know. I haven't had a response from our barrister as to the progress of the 106 Agreement. He was in an Inquiry all last week. Do you have an idea of likely timescales for the completion of the Agreement?

Regards
Anita

Anita Gardner | Principal Planner, Directorate of Place, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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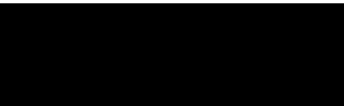
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From: Charles Mills [REDACTED]
Sent: 03 December 2019 08:31
To: Anita Gardner [REDACTED]
Subject: Re: R/94/19/PL

Anita

Just checking we are still ok for the end of this week?

Charles Mills
Partner - Planning



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On 25 Nov 2019, at 13:20, Anita Gardner [REDACTED] wrote:

Charles,

I note that the Agreement is still being drafted. Can you agree to a further extension of time on the application to facilitate processing of the Agreement. Shall we say until the end of next week 06-12-2019?

Regards

Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Charles Mills

Sent: 28 October 2019 17:04

To: Anita Gardner

Subject: RE: R/94/19/PL

Anita

We can but is it possible to get to a firm date on this? Can we please stick with the 8th?

Charles Mills - Partner
Planning

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From: Anita Gardner <[REDACTED]>
Sent: Monday, October 28, 2019 4:59 PM
To: Charles Mills <[REDACTED]>
Subject: RE: R/94/19/PL

Charles,
I haven't heard back from legal and I am unlikely to be in a position to write up my report by the end of this week. Shall we therefore agree to a further extension of time on the application until 08-11-2019?
Regards
Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](#) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Charles Mills <[REDACTED]>
Sent: 28 October 2019 16:21
To: Anita Gardner <[REDACTED]>
Subject: RE: R/94/19/PL

Anita

Can I please get an update on timing/progress?

Many thanks

Charles Mills - Partner
Planning

[REDACTED]
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From: Charles Mills

Sent: Friday, October 18, 2019 9:46 AM

To: 'Anita Gardner' [REDACTED]

Subject: RE: R/94/19/PL

Anita

Is it possible to get an update on progress please? I have a meeting with the convalescent home charity and they are keen to see this resolved as soon as possible.

Kind regards

Charles Mills - Partner
Planning

[REDACTED]

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London EC4A 2DW

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From: Charles Mills
Sent: Wednesday, October 2, 2019 2:36 PM
To: Anita Gardner [REDACTED]
Subject: RE: R/94/19/PL

Anita

Thank you. Agreed to extension of time for 25th October.

Let me know if we can do anything to assist you in writing your report. I will make sure our client's solicitors make contact with Jeremy asap.

Kind regards

Charles Mills - Partner
Planning

[REDACTED]

Daniel Watney LLP
165 Fleet Street
London EC4A 2DW

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From: Anita Gardner [REDACTED]
Sent: 02 October 2019 13:24
To: Charles Mills [REDACTED]
Subject: RE: R/94/19/PL

Charles,

Would you be agreeable to 25/10/2019? I will do my best to adhere to a deadline of the 25th, but I may struggle to get the report written and I can't guarantee that it will be possible. I have other older applications to prioritise and I am away for 5 days in October and have a Hearing and Inquiry work to prepare.

Regards

Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, Arun District Council | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LE

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From: Charles Mills <[REDACTED]>
Sent: 02 October 2019 12:45
To: Anita Gardner <[REDACTED]>
Subject: RE: R/94/19/PL

Anita

I have checked with the charity and they are concerned that wont be able to meet their programmes in terms of reopening and disruption to residents (of the Home). Could we agree a shorter date please?

Charles Mills - Partner
Planning

[REDACTED]
[REDACTED]

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From: Anita Gardner [REDACTED]
Sent: 02 October 2019 11:12
To: Charles Mills [REDACTED]
Subject: RE: R/94/19/PL

Charles
Jeremy Cook in legal services is dealing with the s106.
Can you please agree to a further extension of time to allow for drafting/signing of the agreement and writing of my report. Shall we say until 31-10-2019?
Regards
Anita Gardner

Anita Gardner | Principal Planner, Directorate of Place, [Arun District Council](http://www.arun.gov.uk) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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From: Charles Mills [REDACTED]
Sent: 02 October 2019 11:12
To: Anita Gardner <anita.gardner@arun.gov.uk>
Subject: RE: R/94/19/PL

Anita

Just checking again for an update.

Also – can you please remind me of your solicitors name so I can let our legal team know?

Many thanks

Charles Mills - Partner
Planning

[REDACTED]

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From: Charles Mills

Sent: 01 October 2019 13:56

[REDACTED]

Subject: RE: R/94/19/PL

Anita

I left a message earlier to see if we were closer to getting the DN on the s73?

Also, I think we need to agree a further extension as the current one runs out today.

I am around all afternoon.

Kind regards

Charles Mills - Partner
Planning

[REDACTED]

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From: Charles Mills
Sent: 23 September 2019 10:17
To: 'Anita Gardner' [REDACTED]
Subject: RE: R/94/19/PL

Anita

Is there a convenient time to today to catch up on this application? I am available all day after midday.

Charles Mills - Partner
Planning

[REDACTED]
165 Fleet Street
London EC4A 2DW

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From: Charles Mills
Sent: 12 September 2019 17:57

To: Anita Gardner <[REDACTED]>
Subject: RE: R/94/19/PL

Anita

Yes of course we are happy to agree an extension until 01.10.19 – do you need me to sign anything?

I am away from the end of tomorrow until Monday the 23rd so hopefully we will be able to catch up then.

Regards

Charles Mills - Partner
Planning

[REDACTED]

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From: Anita Gardner <[REDACTED]>
Sent: 12 September 2019 17:39
To: Charles Mills <[REDACTED]>
Subject: RE: R/94/19/PL

Charles,
I hope to be able to update you towards the end of next week. I am currently working on urgent Committee Reports. I apologise for the delay. In the meantime, are you happy to agree to an initial extension of time on the application until 01-10-2019?

Regards
Anita Gardner



From: Charles Mills [REDACTED]
Sent: 12 September 2019 17:34
To: Anita Gardner [REDACTED]
Subject: RE: R/94/19/PL [REDACTED]
Importance: High

Anita

Are you able to update me on what is happening with our application?

Many thanks

Charles Mills - Partner
Planning

[REDACTED]

Daniel Watney LLP
165 Fleet Street
London EC4A 2DW

[REDACTED]

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From: Charles Mills
Sent: 09 September 2019 13:31
To: Anita Gardner
Subject: RE: R/94/

Anita

Is it possible to get an update on the current application? We also need to agree an extension of time.

I will look forward to hearing from you.

Kind regards

Charles Mills - Partner
Planning

[REDACTED]

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London EC4A 2DW

[REDACTED]

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From: Charles Mills
Sent: 15 August 2019 14:08
To: Anita Gardner
Subject: R/94/19/

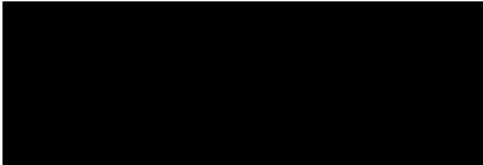
Anita

I am writing to get an update on our application R/94/19/PL for the variation of condition 2. The determination date was anticipated to be today. I left a voicemail last week to suggest a short extension of time to allow the deed of variation for the 106.

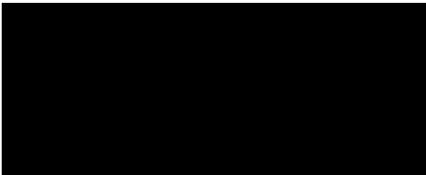
Can you let me know?

Many thanks

Charles Mills - Partner
Planning



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