

Recommendation Report for Removal of a Planning Obligation

REF NO: WA/11/22/PO

LOCATION: Land to the East of
Fontwell Avenue
Fontwell

PROPOSAL: Application to enter into a Deed of Variation to amend the Mortgagee Exclusion clause and definition of Chargee in relation to the Affordable housing Clause under WA/22/15/OUT.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION The application seeks to amend the Mortgagee Exclusion clause and the definition of Chargee in relation to the affordable housing clause contained within the S106 associated with outline planning approval WA/22/15/OUT.

N/A

REPRESENTATIONS

Walberton Parish Council:

- Reference to the Leaf contract should be removed from the draft Deed of Variation referred to in the above application. We are led to understand that WSCC is in approval of this correction.
- We have no other observations.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATION RESPONSES RECEIVED:

Housing Strategy and Enabling Manager:

- There doesn't appear to be anything untoward in the suggested amendments, as its common for the mortgagee clauses to be rewritten due to lender specifications.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

DEVELOPMENT PLAN POLICIES

CONCLUSIONS

The application seeks to amend the S106 associated with outline planning approval WA/22/15/OUT through the amendment of the definition of chargee and the Mortgagee Exclusion Cause. The amendments as proposed will related to the replacement of the following paragraphs within the original S106 agreement:

- Paragraph 4.1 of Schedule 2;
- Paragraph 4.1.5 (2) of Schedule 2;
- Paragraph 4.1.6 of Schedule 2; and
- Clause 9.1 of the Nominations Agreement attached at Schedule 2.

These amendments are sought as the wording within the existing Section 106 agreement and draft nominations agreement would not be acceptable to a lender. The amendments have been the subject of consultation with the Council's Housing Strategy and Enabling Manager who has raised no objection. Advising that it is common for mortgagee clauses to be rewritten due to lender specifications.

The proposed amendments to the S106 agreement are deemed to be in accordance with policy AH SP2 of the Arun Local Plan and as such 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.

HUMAN RIGHTS ACT

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