

David Easton  
Principal Planning Officer  
Planning Department  
Arun District Council  
Arun Civic Centre  
Littlehampton  
West Sussex  
BN17 5LF

Reading  
Suite 3  
Apex Plaza  
3 Forbury Road  
Reading RG1 1AX

03 November 2021

Our Ref: 34199

Planning Portal Ref: PP-10346007

Dear David,

Land at Bilsham Road – Submission of Non-Material Amendment (section 96A) Pursuant to Outline Planning Permission Y/91/17/OUT

On behalf of Bilsham Road LLP ("the Applicant"), we write to formally submit a Non-Material Amendment (Section 96A) to Outline Planning Permission Y/91/17/OUT to amend 2.no conditions (Condition 9: Proposed Surface Water Drainage Scheme and Condition 10: Surface Water Drainage).

Outline Planning Permission was granted on 4 April 2019 for the following:

*"Outline application for the development of up to 250 residential dwellings (Class C3), vehicular access, public open space, ancillary works and associated infrastructure."*

Section 96A of the Town and Country Planning Act enables a Local Planning Authority to make changes to a planning permission providing that change is not material. This power extends, under S96A(3)(b), to the alteration or removal of planning conditions.

Planning Conditions 9 and 10 of Outline Planning Permission (Ref: Y/91/17/OUT) requires the submission and discharge of information pertaining to drainage *"prior to the approval of any reserved matter"*.

Paragraph 55 of the National Planning Policy Framework ("NPPF") notes that Planning Conditions must only be used when they satisfy the following six criteria:

1. Necessary;
2. Relevant to Planning;
3. Relevant to the development to be permitted;

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4. Enforceable;
5. Precise; and
6. Reasonable in all other respects.

In this instance, we do not consider that the test is met as the wording of the condition fails criterion 1 (Necessary) and criterion 6 (Reasonable). Conditions such as this can be discharged prior to the commencement of development once reserved matters layouts are approved. Consultation has been held with the Lead Local Flood Authority during the consideration of Reserved Matters to agree a drainage strategy without the submission of full drainage details until the subsequent discharge of condition.

The previous refusals of condition discharge (enclosed) serves to demonstrate that it is unreasonable to require the condition to be discharged before a layout is approved.

Planning Condition 9 currently reads:

*"Prior to the approval of any reserved matter full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority, and shall include..."*

We are seeking to amend the wording to:

Prior to the commencement of each phase of the development *full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority, and shall include...*

Planning Condition 10 currently reads:

*"Prior to the approval of any reserved matter details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage relating to that dwelling have been fully implemented in accordance with the approved details...."*

We are seeking the wording to be amended to:

Prior to the commencement of each phase of the development *details of a proposed foul drainage system shall be submitted to and approved in writing by the Local Planning Authority (including details of its siting, design and subsequent management/maintenance, if appropriate) and no dwelling shall be occupied until works for the disposal of sewage relating to that dwelling have been fully implemented in accordance with the approved details.*

### **Contents of the Application**

The specific documents and plans submitted pursuant to this application are as follows:

- ✦ Application form and ownership certificate;
- ✦ Cover Letter;
- ✦ Condition 9 Decision Notice (Refusal) (y/3/21/DOC) dated 29<sup>th</sup> April 2021;
- ✦ Condition 10 Decision Notice (Refusal) (Y/155/20/DOC) dated 29<sup>th</sup> April 2021;

Nexus Planning

The required application fee [REDACTED] will be paid directly to the Planning Portal by the Applicant along with [REDACTED] Planning Portal admin fee.

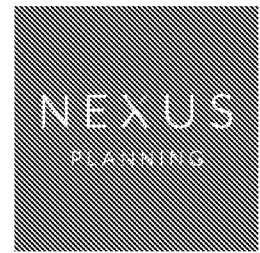
I trust this information is acceptable and that the application can be registered and validated without delay. If you have any questions on any of the information, please do not hesitate to contact either myself or Zoe Knott.

Yours sincerely,

[REDACTED]  
**Mykenna Mortimer - Davies**  
Planner

Insert individual's name

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# **Appendix 1 – Y/3/21/DOC Decision Notice – Condition 9**



Arun District Council  
Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF  
Planning & Building Control General Enquiries  
Tel: (01903) 737756 Fax: (01903) 730442  
Dx: 57406 Littlehampton  
Minicom: 01903 732765  
e-mail: [planning@arun.gov.uk](mailto:planning@arun.gov.uk)  
website: [www.arun.gov.uk/planning](http://www.arun.gov.uk/planning)

Nexus Planning  
5th Floor Thames Tower  
Station Road  
Reading  
RG1 1LX

Date: 29th April 2021

Please ask for: Mr S Davis  
Tel: 01903 737874

Your Ref:

Our Ref: Y/3/21/DOC

Dear Miss Knott,

**Town & Country Planning Act 1990 (as amended)**  
**Town and Country Planning (Development Management Procedure) (England) Order 2015**  
**Approval of details reserved by condition imposed under Y/91/17/OUT relating to conditions 9-surface water drainage scheme & 12-foul drainage scheme.**  
**Land at Bilsham Road**

Notification regarding the above application:

**Condition Number 9**

Prior to the approval of any reserved matter full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the local planning authority, and shall include;

- Winter groundwater monitoring to established highest annual ground water levels and percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage.
- Details of any discharge of any flows to watercourses, the culverting or diversion, infilling or obstruction of any watercourses on the site.
- Arrangements for future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site.

No building shall be occupied in any phase until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the surface water disposal scheme is agreed before construction commences and to protect existing watercourses prior to the commencement of development.

**Decision:**

Arun District Council have decided to **REFUSE details reserved by condition for the following reasons:**

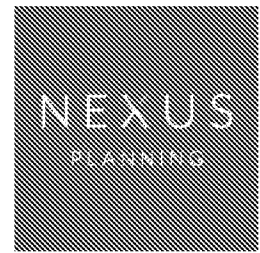
Council Drainage Engineers have stated that they cannot currently properly review or agree the proposals for the various reasons set out in their consultation response of 07 April 2021 (available on our website). As such, the condition cannot be discharged and you will need to make a revised submission.

Please do not hesitate to contact the above officer if you require any further assistance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'NC' with a flourish at the end.

Neil Crowther  
Group Head of Planning



# **Appendix 2 – Y/155/20/DOC Decision Notice – Condition 10**



Arun District Council  
Arun Civic Centre  
Maltravers Road  
Littlehampton  
West Sussex BN17 5LF  
Planning & Building Control General Enquiries  
Tel: (01903) 737756 Fax: (01903) 730442  
Dx: 57406 Littlehampton  
Minicom: 01903 732765  
e-mail: [planning@arun.gov.uk](mailto:planning@arun.gov.uk)  
website: [www.arun.gov.uk/planning](http://www.arun.gov.uk/planning)

Nexus Planning  
5th Floor Thames Tower  
Station Road  
Reading  
RG1 1LX

Date: 29th April 2021

Please ask for: Mr S Davis  
Tel: 01903 737874

Your Ref:

Our Ref: Y/155/20/DOC

Dear Miss Knott,

**Town & Country Planning Act 1990 (as amended)**

**Town and Country Planning (Development Management Procedure) (England) Order 2015**

**Approval of details reserved by condition imposed under ref Y/91/17/OUT relating to Condition Nos 8 - Arboricultural Method Statement & Tree Protection Plan, 10 - surface water drainage, 13 - Ecological Management & Mitigation Plan, 15 - external lighting and 21 - Travel Plan.**

**Land at Bilsham Road**

Notification regarding the above application:

**Condition Number 10**

Prior to the occupation of each phase full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual for that phase and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Policies D DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

**Decision:**

Arun District Council have decided to **REFUSE details reserved by condition for the following reasons:**

Council Drainage Engineers have stated that they cannot currently properly review or agree the proposals for the various reasons set out in their consultation response of 07 April 2021 (available on our website). As such, the condition cannot be discharged and you will need to make a revised submission.

Please do not hesitate to contact the above officer if you require any further assistance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'NC' followed by a flourish and a period.

Neil Crowther  
Group Head of Planning