

From: Daniel Vick <Daniel.Vick@arun.gov.uk>
Sent: 20 May 2022 16:29
To: Ian Johnson [REDACTED]
Subject: RE: Y/186/21/PL - Bonhams Field, Yapton

Ian

Neil Crowther, Simon Davis and I have reviewed your legal opinion and have met to further consider the proposal. However, our stance remains that you cannot amend an existing s106 on an application for a different site (or for a part of the original area). We can't have a situation where an application is subject to a s106 referring to infrastructure contributions (i.e. a reduction of the existing) and is also subject to CIL at the same time. You would need to submit a PO application to vary the existing 106 and to run alongside the current application. Alternatively, you could submit a full application for the whole site and vary the existing s106 at the same time.

Notwithstanding, having discussed the merits of the case, we are of the view that the proposal is an overdevelopment of the site and will be harmful to local character. We therefore intend to refuse on this basis and Simon will work on the report when he has the capacity to do so.

Daniel Vick
Team Leader, Development Control

T: 01903 737771
E: daniel.vick@arun.gov.uk

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From: Ian Johnson [REDACTED]
Sent: 17 May 2022 13:31
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

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Hi Dan

Are you still able to respond this week so we can decide on next steps? Obviously the offer remains open for further input / clarification from ourselves on the application and DoV etc.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Wednesday, 11 May 2022 at 17:45
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Dan

Thank you for the email. I look forward to your update.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Daniel Vick <Daniel.Vick@arun.gov.uk>
Date: Wednesday, 11 May 2022 at 17:26
To: Ian Johnson [REDACTED]
Subject: RE: Y/186/21/PL - Bonhams Field, Yapton

Ian,

Sorry for the delay – a longer than usual Committee closing process.

I discussed with my manager last week and he wants a discussion with Simon and I to review. Simon is in a hearing for possibly the next 2 days so we are arranging a time for next week. I will get back to you after the meeting.

Daniel Vick
Team Leader, Development Control



T: 01903 737771
E: daniel.vick@arun.gov.uk

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From: Ian Johnson [REDACTED]
Sent: 10 May 2022 11:09
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

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Hi Dan

I am not sure if you have been receiving my emails and voicemail messages, or whether the lack of communication is a case of you being exceptionally busy? I apologise for chasing you on this as I expect it is the latter. However, we really do need an update on your review of the draft DoV and legal opinion.

When we met on 19th April you were aiming to respond to us on the submitted draft DoV and legal opinion the following Tuesday, after Simon's return from leave. As we are now 2 weeks past that point and this application has moved past its target 13 week determination date we are keen to understand the reason for the delay and agree a way forward. If it is a case of allocating additional resources to the determination of the application, or review of the legal documents, this is a conversation our client is open to, although the first step is to make contact with us, ideally today.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Monday, 9 May 2022 at 12:27

To: Daniel.Vick@arun.gov.uk <Daniel.Vick@arun.gov.uk>

Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

Are you able to provide an update please?

Sorry to chase.

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]

Date: Thursday, 5 May 2022 at 11:49

To: Daniel.Vick@arun.gov.uk <Daniel.Vick@arun.gov.uk>

Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

Are you able to provide an update please?

If you would prefer a meeting, potentially between solicitors, to ensure CIL and S106 obligations would be integrated correctly and to the Council's satisfaction I would be happy to arrange this.

Kind regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Friday, 29 April 2022 at 09:39
To: Daniel.Vick@arun.gov.uk <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

I hope you are well.

I spotted you at Committee yesterday as my colleague was presenting the Woodgate application on behalf of Hanbury Properties. It seemed to go well and fairly swiftly!

I appreciate you have several plates spinning at the moment, although would it be possible to provide an email update or even a quick call on the Bonhams Field application today?

Hopefully you have had an opportunity to review the legal opinion, draft DOV and examples I sent through on similar replan applications in Chichester where S106s have required modifying to account for the introduction of CIL. We can of course provide further clarification and discuss an extension of time if you wish.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Thursday, 28 April 2022 at 14:26
To: Daniel.Vick@arun.gov.uk <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

Are you able to provide an update please?

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Tuesday, 26 April 2022 at 14:35
To: Daniel.Vick@arun.gov.uk <Daniel.Vick@arun.gov.uk>
Subject: Fwd: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

Apologies to double up on my voicemail.

Further to our meeting last week are you able to agree to our proposals for the DOV in order to move our application forward?

Best regards

Ian

Ian Johnson
Managing Director

www.lukenbeck.com

From: Ian Johnson [REDACTED]
Sent: Tuesday, April 19, 2022 11:33 am
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Cc: [REDACTED]; Lucy Brown
[REDACTED] Thomas Roberts [REDACTED]
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

Given it is now 11:30am and the various travel arrangements for those attending, no doubt including yourself, may I suggest we meet via Teams? The meeting invite already includes a Teams link as our client Lucy Brown was only able to join via Teams today in any event.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Tuesday, 19 April 2022 at 09:25
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Cc: [REDACTED] Lucy Brown
[REDACTED] Thomas Roberts <[REDACTED]>
Subject: FW: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

You may have seen a meeting was entered into your diary while you were on leave last week for 3pm today in your offices.

The purpose of the meeting is to find a way forward for the above application. As far as I can tell we have submitted all of the information requested by officers and there are no outstanding objections from the statutory consultees which cannot be addressed through the DoV.

We have arranged for Nicola Gooch, Irwin Mitchell to attend to lead the discussion on the DoV, or other suitable legal mechanism, for integrating the two applications and related S106 and CIL requirements.

Are you available to confirm your availability asap please as we have a fair distance to travel?

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson [REDACTED]
Date: Monday, 11 April 2022 at 09:03
To: Daniel Vick <Daniel.Vick@arun.gov.uk>
Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>, Simon Davis <Simon.Davis@arun.gov.uk>
Subject: FW: Y/186/21/PL - Bonhams Field, Yapton

Hi Dan

During our telephone conversation on Friday you mentioned your legal advisors did not consider the principle of a re-plan application was possible on this site. You also requested some examples of consented re-plan applications.

Would it be possible to email me a copy of the legal advice as this is contrary to the legal advice my client has received and which we have shared with the Council?

With regard to the examples of re-plan consents, we have obtained numerous house substitutions at Felpham for BDW in Arun DC and there are examples elsewhere. It is inevitable that re-plan applications will need to deal with CIL as the original consents may well pre-date the introduction of CIL in Arun in April 2022. The draft DOV and legal advice we have submitted clearly sets out how the two applications would be delivered alongside the required S106 and CIL obligations.

I understand you agree that a meeting could be helpful and we shall send you some examples of re-plan applications in advance or some dates for the meeting.

Best regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Ian Johnson <[REDACTED]>
Date: Friday, 18 March 2022 at 12:52
To: Simon Davis <Simon.Davis@arun.gov.uk>
Cc: Nicola Gooch <[REDACTED]>, Daniel Vick <Daniel.Vick@arun.gov.uk>, Thomas Roberts <[REDACTED]>, Neil Crowther <Neil.Crowther@arun.gov.uk>, Steve Culpitt <[REDACTED]>, Lucy Brown <[REDACTED]>, David West <[REDACTED]>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Dear Simon

Further to the email from Tom on Tuesday (with attached Irwin Mitchell legal opinion) we have undertaken a review of other re-plan applications in Arun. We have identified two examples of where approval has been granted and either a Deed of Variation or a new S106 Agreement has been considered acceptable mechanisms for securing changes to previously agreed planning obligations.

I expect there are other examples in Arun and of course in other LPA areas, including in neighbouring Chichester which Luken Beck have secured consent for. As the two examples referred to below are from within Arun and the case officer was Claire Potts, Team Leader we felt these would be most relevant. In summary:

- **Site 6, Felpham FP/102/16/PL** – approval of re-plan for additional 33 dwellings, comprising a greater proportion of 3 bed dwellings. The original S106 was subject to DOV and affordable housing was agreed to be provided off-site by financial contribution.

- **Nyton Nursery AL/3/19/PL** – approval of re-plan for additional 23 dwellings, comprising a greater proportion of smaller dwellings and a non policy compliant split of affordable tenure 69:31. The resolution was to grant consent subject to completion of a S106, which was to include additional planning obligations created by the re-plan element.

I hope this email provides helpful background for your forthcoming response to Tom's email. Please can you also contact the County Council again to request their consultation response regarding any obligations they wish to have included in the legal agreement. We trust the submitted draft Deed of Variation covers the other planning obligations associated with this application.

Regards

Ian

Ian Johnson BSc (Hons) MA PG UD MRTPI
Managing Director

[REDACTED]
30 Carlton Crescent, Southampton, Hampshire SO15 2EW



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From: Thomas Roberts [REDACTED]
Date: Tuesday, 15 March 2022 at 16:19
To: Simon Davis <Simon.Davis@arun.gov.uk>
Cc: Ian Johnson [REDACTED], Nicola Gooch [REDACTED] Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

Dear Simon,

Thank you for your response.

Despite our best efforts we are disappointed that you are continuing to refuse to negotiate or engage with us on these issues. The approach adopted by Arun District Council in this instance does not reflect the proactive and effective planning spirit that the NPPF encourages and I am unaware of any provisions within the Town and County Planning Act that give local authorities the scope to state such reasons as you do in your email today for not determining an application for planning consent. The remaining issue to resolve is predominantly legal in nature and requires engagement on both sides.

By providing a legal mechanism to deliver both schemes, it is not intended to be a negotiation but the provision of an adequate legal framework. It is important to acknowledge that apart from this one legal issue, the remainder of

this application is positive and development plan compliant and no other single issue would justify a refusal of the application. Furthermore, when determining a planning application, should more time be required to iron out key issues associated with a planning application then that is by agreement of the applicant in writing (NPPF para 47) and not at the discretion of the planning authority. I have been monitoring all consultation responses to date – most of which have not raised any objection - and it should be noted that you are still awaiting comments from West Sussex County Council on contributions. Given this directly impacts the Section 106 issue we are trying to resolve, it would be premature to refuse the application on this matter at this stage. Given that you as Case Officer have not allowed sufficient time to ensure that all relevant consultation responses have been received, and your repeated refusal to meet or engage with us to resolve outstanding matters, my client will not be withdrawing the application.

Please see attached the legal opinion dated 8th March 2022 that was prepared by our client's Solicitor, Nicola Gooch of Irwin Mitchell, last week in response to your email dated 1st March 2022. This sets out how we intend to address the Deed of Variation / Section 106 approach, however in light of your recent email today, we will provide you with an updated opinion in due course to cover the newer points that you have raised.

We note that you have stated that we cannot amend the original Section 106 via a Deed of Variation. To the contrary, we believe that it can and should be grateful if you could provide us with evidence or justification supporting this point (e.g. any legal opinion that you may have sought or case law to inform your reasons outlined in your email below) as it is our view (supported by our Client's Solicitor) that it is legally possible to do this without too much difficulty and has been successfully achieved on other sites elsewhere (including in neighbouring planning authorities). The solution we have offered to you is not the only way forward with this. Further options also include:

Option 1: a composite Section 106 to supersede the existing agreement and include additional obligations for the replan element (Phase 2); or

Option 2: alternatively our client implements up to the 24th dwelling of the approved permission under the existing Section 106 agreement and ceases development at that point. A subsequent application for the additional houses in Phase 2 would then be submitted with its own legal agreement and CIL obligations.

Next Steps:

1. We would be grateful to have a meeting with you and a member of your legal team at the earliest opportunity to discuss this matter with the aim of resolving any misunderstandings and achieving a successful outcome for my client on what should be a relatively straightforward matter. Please could you advise me of dates that you are available for such a meeting?
1. We welcome sight of any evidence or case law you have to support your points raised in your email today.
1. We will provide you with an updated legal opinion from my Client's Solicitor to address the newer points raised in your email today.
1. My client's planning application will not be withdrawn.

I look forward to your response.

Kind Regards
Tom

Thomas Roberts BSc (Hons) MA UD (He/Him)
Principal Planning Consultant

30 Carillon Crescent, Polygon, Southampton, Hampshire SO15 2EW

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From: Simon Davis <Simon.Davis@arun.gov.uk>

Date: Tuesday, 15 March 2022 at 10:37

To: Thomas Roberts <[REDACTED]>

Cc: Ian Johnson <[REDACTED]>, Nicola Gooch <[REDACTED]> Daniel Vick <Daniel.Vick@arun.gov.uk>

Subject: RE: Y/186/21/PL - Bonhams Field, Yapton

Dear Thomas,

We have discussed this matter further internally but our position has not changed:

- You cannot amend the original s106 via a DoV on this partial replan application. You would either need to submit a separate s73 application (with a DoV) to run concurrently or reapply for the whole site (as Y/98/20/PL did) and submit a DoV with that. Both scenarios would require this application to be withdrawn as we cannot entertain an extension of time;
- You cannot change the description of the original permission/the description as set out within the original s106 via a DoV on this new application. The submitted DoV appears to do that by adding references to the phase 2 area which together with the phase 1 is for a greater number of dwellings than as permitted;
- You need to confirm that every single element of the original s106 and the conditions attached to the existing permissions can be implemented independently of each other. If any cannot then it would not be possible to achieve planning permission by a partial replan application. For example, is all new planting one side of the application red edge or the other? If anything approved straddles both areas then the partial replan cannot be implemented separately. It is not enough to just say that layouts fit together;
- The Council will also need to be satisfied that we will know which scheme is being implemented on which site for monitoring and compliance purposes and having two permissions with varied s106 and CIL on different parts of the site will make this exceptionally difficult;
- This advice reflects that given in our pre-application. As previously stated, our policy is not to negotiate any changes where pre-application advice was not followed (noting that it was my prompting that led to consideration of this) and so we will determine this application as it stands unless you wish to withdraw and resubmit.

Kind Regards

Simon J Davis MRTPI
Principal Planning Officer
Directorate of Place

T: 01903 737874

E: simon.davis@arun.gov.uk

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From: Thomas Roberts <[REDACTED]>
Sent: 03 March 2022 16:33
To: Simon Davis <Simon.Davis@arun.gov.uk>
Cc: Ian Johnson <[REDACTED]>; Nicola Gooch <[REDACTED]>; Neil Crowther <Neil.Crowther@arun.gov.uk>; Daniel Vick <Daniel.Vick@arun.gov.uk>
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton

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Good Afternoon Simon,

Further to your email, please see our responses below.

Requirement for a Re Plan Application

I note your comments setting out that you intend to refuse permission unless we agree to withdraw and resubmit the proposal as a full application for the whole site.

The original approved application has already been implemented and development of phase 1 of that permission is now underway. Amending the redline for this application would have far reaching implications for the entire development – given that the resubmission would be partly retrospective. For example – the dwellings permitted for phase 1 would then both become CIL liable and ineligible for mandatory social housing relief, as their development has already commenced. This would also cause significant issues with our registered provider,. As such, the submission of a re-plan for part of the site is a more straight forward approach to increasing dwelling numbers on the site, subject to a suitable legal mechanism.

Legal Compliance

Please could you confirm for absolute clarity that you are not questioning whether the Council can lawfully grant permission for a partial re-plan. We have been advised by our client's solicitor that the current planning application can be lawfully granted, although should you require it we can provide you with a legal opinion to this effect within a week. However, it should be noted that if you were seeking a legal opinion, you should have made this clear in your pre-application response. We had interpreted the pre- app advice as requiring a statement on how the scheme will be integrated with the approved scheme on the wider site – which we have already provided.

You may recall that our client's solicitor emailed you almost 2 weeks ago (see email from Nicola Gooch of 18th February attached) advising you on how the forthcoming Deed of Variation to the current S106 Agreement would be structured to ensure the integration of the application with the wider site. The same email offered to provide you with an early draft of the Deed of Variation to demonstrate how this mechanism would work. You did not reply to this email and had you done so, you would have been in receipt of the draft Deed of Variation last

week. You may recall in your email of the 14th February, you suggested that the application could proceed on its on current basis and that a deed of variation could follow the granting of consent. We therefore consider that we are working in accordance with your pre-application advice, as well as the advice you have given us to date during the determination period, for submitting a Statement setting out how the two permissions can be implemented together and the legal process involved.

Response to Pre-Application Advice

Given that in your pre-application response you failed to state that the application could not be developed side-by-side with the existing permission, we do not feel this is a reasonable basis to be refusing this application. In your pre-application you state *“If there are issues with the relationship of s106 and CIL then this suggests that you cannot develop side by side and so you would need to submit a full application.”* We have provided you with a mechanism for ensuring that the existing s.106 Agreement and the CIL liabilities on Phase 2 fit together – through the forthcoming Deed of Variation, which will clearly set out how the current application will be integrated with the wider site. Please could you provide us with the planning obligations required for Phase 2, as we have not received this to date and the intention is to incorporate these obligations into within the forthcoming Deed of Variation.

In terms of other advice provided in your pre-application response, we are also in accordance for the following reasons;

- Advice on design standards to be applied on the application – all standards have been complied with, as set out in the submitted plans and drawings.
- Advice on bin storage – all details have been included on the submitted plans and drawings.
- Requirement to ensure the overall Affordable Housing requirement for the **whole site** are met through the planning application and associated s106 agreement – I have set out our response in my email dated 01/02 and the Affordable Homes Statement within the PDAS. Whilst we note your comments regarding the tenure split not be in accordance with Policy AH SP2, as previously stated in my email, we are in accordance with the agreed tenure split of 50/50 as agreed on the original consent and s106 for Phase 1. Nonetheless, we are providing a 67% / 33% tenure split for the Phase 2 element in line with your Affordable Housing Policy within Phase 2.
- Highways advice focused on parking requirements – address within the submitted transport statement, plans and drawings.
- Requirements for Surface Water Drainage Statement and Impact Assessment – details provided within the submitted drainage / flood risk assessment.
- Heritage advice noted – Heritage Officer has confirmed no objections to the proposals.
- Advice on off-site infrastructure contributions focused on the need for S106 / CIL contributions – these are dealt with, within the forthcoming Deed of Variation.
- Advice provided on housing market mix – the proposed mix for 2, 3 and 4 bed properties is within a 5% range of the Council’s preferred mix as set out within the Council’s District Wide SHELAA 2016.
- Advice provided on M4(2) and M4(3) housing requirements – the site as a whole we deliver the required amount and this will be delivered as part of the Phase 1 development.

We therefore consider we have followed pre-application advice and your decision to not negotiate any changes is unreasonable, particularly given we are not proposing any changes to the submitted application.

Status of Current Planning Application

In addition, we have received positive responses from other statutory consultees including no objections from the following;

- Conservation Officer
- Lead Local Flood Authority
- Environmental Health Officer
- Arun Conservation Area Advisory Panel
- WSCC Archaeology Officer
- Natural England

- National Highways

Clearly the objection from the Housing Manager can be dealt with through a Deed of Variation, which again you will recall we originally sought to discuss with you and the Housing Manager some weeks ago although we have yet to receive your response. Whilst we also note there has been an objection from the Parish Council to the principle of development on this site and on issues relating to affordable housing, highways and drainage. All of these have been / are being dealt with in the submission and are referred too above.

Relevance of Example Schemes Provided by yourself

With regard to the two schemes you have mentioned that were refused on reasons relating to infrastructure requirements, both schemes are not comparable to the proposed Bonhams Field Phase 2 application. The first application (WA/59/20/PL) sought to reduce financial contributions and there was no deed of variation submitted with the application. The second application (P/97/20/PL) was refused primarily on reasons of overdevelopment and a lack of S106 agreement. Our clients fully intend to provide a deed of variation to the existing S106 agreement and be fully compliant with the appropriate financial and infrastructure contributions sought by the Council from both phases of development.

Summary

We trust the above and attached are sufficient for you approach the current application in a positive manner, although should you require more time to coordinate the Deed of Variation with your legal team our client would accept an extension of the determination period. We have been advised by our client's solicitor that a draft of the Deed of Variation will be provided by Mid March. It is disappointing that you are now acting in an obstructive manner, particularly given that the application was validated and you did not raise a request for further information earlier in the determination period. The lack of willingness to work in a proactive manner with ourselves is detailed in the attached timetable of correspondence and is contrary to Paragraph 38 of the NPPF which clearly states that Local Planning Authorities should approach decisions on proposed development in a positive way and LPAs should work proactively with applicants. I appreciate that Local Authorities are under a lot of pressure and you have procedures in place to help deal with a large volume of work. However, in this instance the matters are straight forward and it is in both parties interests (as this is a site under implementation) to cooperate to reach a favourable outcome. We are also aware of the increasing number of appeals within Arun relating to the significant housing shortfall and if this application is refused on this basis, we will be appealing and applying for costs.

I look forward to your response.

Kind Regards

Tom

Thomas Roberts BSc (Hons) MA UD (He/Him)
Principal Planning Consultant



30 Carlton Crescent, Polygon, Southampton, Hampshire SO15 2EW



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From: Simon Davis <Simon.Davis@arun.gov.uk>

Date: Tuesday, 1 March 2022 at 18:05

To: Thomas Roberts [REDACTED]

Cc: Ian Johnson [REDACTED]

Subject: RE: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments [IM-Active.FID3411480]

Dear Thomas,

I note the advice of your planning solicitor. However, please also note the following which I set out in the pre-application response (PAA/105/21):

"Please ensure that any future application demonstrates how the necessary infrastructure can be provided through a combination of s106 and CIL and taking account of the s106 attached to the outline permission.

The question of whether we can accept a partial re-plan application or a full is whether you can implement the two permissions side by side. If there are issues with the relationship of s106 and CIL then this suggests that you cannot develop side by side and so you would need to submit a full application. You cannot amend the original s106 through a partial re-plan that would now be subject to CIL and would therefore be hit by CIL and the original s106. We need to have certainty of when a trigger in the s106 is reached and the act of implementing two different permissions makes this impossible.

Please also note that two recent re-plan applications have been refused (WA/59/20 & P/97/20/PL) with reasons relating to the infrastructure requirements.

Should you consider it appropriate to submit a partial re-plan application then I would recommend that you seek your own legal advice and the application be accompanied by a statement setting out how the two permissions can be implemented together and how the conflicts between the existing s106 and CIL can be resolved. However, it is our view that a full application for XX dwellings would be the most appropriate course of action and that this could then be accompanied by a Deed of Variation to the original s106 with the other infrastructure requirements then being secured by CIL."

It is disappointing that there was no response to these points in your submission for Y/186/21/PL and that it took me to raise it again during the application for it to be considered. Our policy as set out on our website is not to negotiate any changes where pre-application advice was not followed. For this reason, I do not agree to a meeting to discuss this.

It is our opinion that this application if permitted could not be developed side-by-side with the existing permission and that the existing s106 would be affected (as a DoV would be necessary). Unless you agree to withdraw and resubmit the proposal as a full application for the whole site, it is my intention to refuse permission under delegated powers.

Kind Regards

Simon J Davis MRTPI
Principal Planning Officer
Directorate of Place

T: 01903 737874
E: simon.davis@arun.gov.uk

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From: Thomas Roberts [REDACTED]
Sent: 01 March 2022 10:50
To: Simon Davis <Simon.Davis@arun.gov.uk>
Subject: FW: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments [IM-Active.FID3411480]

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Good Morning Simon,

I hope you're keeping well. I appreciate that you have just come back off leave so are likely catching up with everything - have you had any thoughts on the below suggestion of having a meeting following Nicola's email setting out how we intend to address the Section 106 issue / affordable housing and M4(2) contribution.

Seaward are pushing us hard to get this sorted sooner rather than later, particularly given the determination target date is fast approaching and I appreciate that you will have to start getting the committee report ready etc.

Kind Regards
Tom

Thomas Roberts BSc (Hons) MA UD (He/Him)
Principal Planning Consultant

[REDACTED]
30 Carlton Crescent, Polygon, Southampton, Hampshire SO15 2EW



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From: Thomas Roberts [REDACTED]
Date: Friday, 18 February 2022 at 17:12

To: Simon Davis <Simon.Davis@arun.gov.uk>

Cc: Ian Johnson [REDACTED]

Subject: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments [IM-Active.FID3411480]

Good Afternoon Simon,

Following on from Nicola's email, are we able to arrange a meeting with yourself, the Housing Officer and Sovereign (the RP) to help us move forward with a legal agreement if you're in agreement with the approach Nicola has suggested?

Kind Regards,
Tom

Thomas Roberts BSc (Hons) MA UD (He/Him)
Principal Planning Consultant

[REDACTED]
30 Carlton Crescent, Polygon, Southampton, Hampshire SO15 2EW



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From: Nicola Gooch [REDACTED]

Date: Friday, 18 February 2022 at 17:05

To: Simon Davis <Simon.Davis@arun.gov.uk>, Thomas Roberts [REDACTED]

Cc: Lucy Brown [REDACTED] David West

[REDACTED] Ian Johnson <[REDACTED]> Arjan De Jong
<Arjan.DeJong@arun.gov.uk>

Subject: RE: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments [IM-Active.FID3411480]

Dear Simon,

Thomas asked me to respond to your email, as the planning solicitor advising the applicant on this scheme.

As you can appreciate, we have given the question of how best to integrate this application into the wider development site a great deal of thought.

Whilst Phase 2 is a stand-alone planning application, it is very closely connected with the wider development site. As such, we feel that it is appropriate to deal with the infrastructure contributions for this development through a deed of variation to the existing s.106 Agreement for the site which would:

1. Tie the 'Phase 2 Permission' (if granted) into the existing s.106 Agreement;

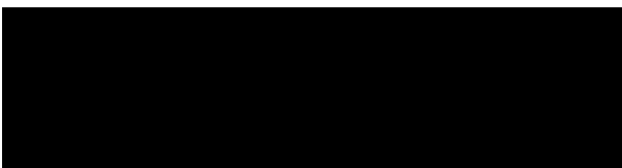
2. Adjust the financial contributions and payment triggers in the existing s.106 agreement to reflect the split between those units developed under the existing consent and those developed under the Phase 2 Permission – which would attract CIL;
3. Update the Affordable Housing provisions and requirements for M4(2) housing to reflect the 'balancing' or over/under provision issues previously discussed; and
4. Pick up any additional s.106 contributions or obligations arising out of the Phase 2 Permission

This would both ensure that the infrastructure contributions for Phase 1 and Phase 2 of the site were properly integrated and also provide you with a mechanism by which the over/under provision issues on the site as a whole can be addressed.

If this is an acceptable approach, please let me know and we can let you have an early draft of the deed of variation, so you can see how the mechanism would work.

Kind regards

Nicola Gooch
Partner
Irwin Mitchell LLP



-----Original Message-----

From: Simon Davis [mailto:Simon.Davis@arun.gov.uk]

Sent: 14 February 2022 18:18

To: Thomas Roberts

Cc: Lucy Brown; David West; Ian Johnson; Arjan De Jong

Subject: RE: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments

Dear Thomas,

The issue is that this application has been submitted as a standalone application. Although it seeks development in a part of an existing approved scheme, as it is not an alteration of that scheme or a fresh application for the whole of the development (like Y/98/20/PL was), it is necessary to apply policy to it as a single entity. I am currently unsure how to deal with this and will seek further advice internally. Note that I believe we may have a similar issue in terms of the provision of M4(2) suitable housing as there is a requirement in phase 2 for 4 such homes but none are shown/you may have over provided in phase 1?

Please can you also advise how you plan to deal with the conflict between the requirements for infrastructure contributions in the original s106 versus the need to apply CIL to this proposal? Do you intend to submit a Deed of Variation to the existing s106 to discount the contributions by 16 dwellings should this application receive permission?

Kind Regards

Simon J Davis MRTPI Principal Planning Officer Directorate of Place

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From: Thomas Roberts [REDACTED]
Sent: 14 February 2022 10:43
To: Simon Davis <Simon.Davis@arun.gov.uk>
Cc: Lucy Brown [REDACTED]; David West [REDACTED]; Ian Johnson [REDACTED]
Subject: Re: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments

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Good Morning Simon,

Further to your email below, have you had the chance to look into this yet? Apologies to chase, but we are keen for an update so we can resolve any concerns in a timely manner.

Kind Regards,

Tom

Thomas Roberts BSc (Hons) MA UD (He/Him)

Principal Planning Consultant

[REDACTED]

30 Carlton Crescent, Polygon, Southampton, Hampshire SO15 2EW

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From: Simon Davis <Simon.Davis@arun.gov.uk>

Date: Thursday, 3 February 2022 at 17:54

To: Thomas Roberts [REDACTED]

Cc: Lucy Brown [REDACTED] David West [REDACTED] Ian [REDACTED]

Subject: RE: Y/186/21/PL - Bonhams Field, Yapton - Response to Affordable Housing Comments

Dear Thomas,

This is going to take some detailed thought for me to be in a position to respond (and a meeting without me first having chance to review & prep would not be helpful). I'll find some time to do this at the end of next week and then I'll reply. I can't do it sooner as I am within a Ctte closing week.

Kind Regards

Simon J Davis MRTPI Principal Planning Officer Directorate of Place

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From: Thomas Roberts [REDACTED]

Sent: 01 February 2022 12:25

To: Simon Davis <Simon.Davis@arun.gov.uk>

Cc: Lucy Brown [REDACTED] David West [REDACTED]; Ian [REDACTED]

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Good Afternoon Simon,

I hope you're keeping well. I am emailing in regards to the comments made in relation to affordable housing from the Council's Housing Officer for the Bonhams Field application which I have attached to this email for reference.

In response to these concerns, we are overproviding affordable housing (40%) within Phase 1 of the scheme which has in turn resulted in us providing a lower number of number of affordable dwellings (18.7%) in this Phase 2 application. When the scheme is viewed as a whole, we are continuing to meet the requirements set out by Arun Council in relation to affordable housing requirement of 30%. Please see the table below for a full breakdown with over and under provision, please note that the First Homes will be taken as a percentage of the intermediate housing numbers (so 25% + 8% intermediate = 33%).

Phase 1	Phase 2	Overall Scheme							
Affordable Rent	Intermediate & 1st Totals	Affordable Rent	Intermediate & 1st Totals	Affordable Rent	Intermediate & 1st Totals				
1 Bed	314	202	516						
2 Bed	347	202	549						
3 Bed	123	02	214	5					
4 Bed	112	000	112						
Total	8 (50%)	8 (50%)	16 (40%)	4 (66.6%)	2 (33.3%)	6 (18.7%)	12 (54.5%)	10 (45.5%)	22 (30.5%)

Over Provision
Target Met (rounded)
Under Provision

In addition to meeting the 30% provision across the site, with a large proportion of affordable homes delivered through Phase 1, we have also met the tenure mix of 33% / 67% rented for the Phase 2 application. Please note the affordable tenure mix for the Phase 1 element is based on a 50:50 split in the executed S106 Agreement that was approved prior to the new first homes policy requirements with the updated split. As a consequence of the S106 Agreement the tenure mix has been provided just for Phase 2 and not site-wide. Seaward are committed to providing high quality affordable dwellings as part of their scheme, and we are happy to get the ball moving with a Section 106 agreement for the current Phase 2 application to ensure that the site-wide mix is achieved, if you wish to send over the Council's solicitors details.

Let me know your thoughts on the above, and if at all possible we would like to have a meeting to discuss this in detail if possible?

Kind Regards

Tom

Thomas Roberts BSc (Hons) MA UD

Senior Planner

Luken Beck

30 Carlton Crescent, Polygon, Southampton, Hampshire, SO15 2EW



Website: www.lukenbeck.com

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