

March 11th 2024

Dear Mr. Davis,

1.Comment and Observations; Pre- Commencement Conditions for Y/3/22/OUT and in Association

Although Y/15/24/NMA has been approved, it is observed that pre-commencement conditions for the planning permission Y/3/22/OUT, have not allegedly been undertaken. In the absence of evidential details to the contrary, general available information states:-

'Failure to discharge planning conditions is understood to be a serious matter. If work is commenced without having discharged pre-commencement conditions, it may make the planning permission invalid, and that is where the enforcement of planning conditions comes in. Local Authorities are responsible for enforcing planning conditions'

It is my understanding (subject to confirmation) that planning 'conditions' attached to permitted planning applications can only be appealed against within 5/6 months from the date of approval, which was on August 24th 2022 for Y/3/22/OUT, and the conditions stated on 12/1/23. Such an option appears to have expired, as no appeal has allegedly been made regarding them.

Allegedly also confirmed in the Officer Decision comment, on 8/3/24 for Y/15/24/NMA:-

*' It is not possible to **redetermine any issues already covered by Y/3/22/OUT** other than in respect of the implication of proposed changes to the proposed scheme.'* ((Y/15/24/NMA)).

It is also understood, that once planning conditions are considered to have been undertaken to satisfaction, an application/s can be made to ADC planning, to have them removed. None appear to have been submitted for removal in relation to Y/3/22/OUT.

2.Also referred to in the Officers Report ref Y/15/24/NMA

‘The S106 agreement does not require any amendment in result of this NMA. It binds the owner of the land (‘whoever that may be) to carry out certain obligations’.

The above comment is considered disingenuous and unclear. It may not be necessary to change or amend content at a later date, but it does allegedly have to be confirmed, that the present owner of the site is the one to whom the S106 refers regarding the payments required. Not ‘whosoever that may be’ but a nominated person/ business, in order that the Deed obligations and conditions can be fulfilled.

The Minute from the ADC Planning Committee Meeting 24/8/22 also refers, that a signed S106 is contingent to the application approval for Y/3/22/OUT. (Able to be enforced concerning the actual owner of the site, as conditional). The S106 was stated as required, not a CIL as an alternative.

3. FOI Requests

I understand that an S106 is also a public document and able to be reviewed. As this matter is allegedly unclear, FOI requests are felt necessary as follows :-

FOI request (1) Please supply as copy, the S106 document in relation to Y/3/22/OUT signed by Boklok ON or AFTER 9/1/23.

(The original S106 agreement by Landlink Developments 4 Ltd., Companies House registration number 1184489, dated and signed as on 9/1/23).

FOI request (2) Please supply copies of additional correspondence as copied in/submitted to ADC between Landlink Developments 4 Ltd. and Boklok in relation to any changes in responsibilities/obligations regarding the S106 for Y/3/22/OUT, on/from 9/1/23.

FOI request (3) Please supply copy of the ‘Change in Ownership Form’ document as including content, submitted by Boklok to ADC, in result of a change of ownership of land regarding Y/3/22/OUT (and the S106), between Landlink Properties 4 Ltd. (Land Registered Title of ownership WSX432433 on 9/1/23), and Boklok.

FOI request (4) Please supply copy as content of the Schedule – (1) ‘Commencement Notice’ as including content submitted by Boklok to

ADC, to enable the commencement works on the site for Land West of Bilsham Rd. ref planning approval Y/3/22/OUT and Y/15/24/NMA.

FOI request (5) Please supply copy as content for the Notice of Payment ref S106 ref Boklok for fees regarding the S106 in connection with Y/3/22/OUT and Y/15/24/NMA.

Please send details of the above responses in email. Thank you.

4. Pre- Conditions and Conditions in relation to Y/3/22/OUT

If the pre-commencement conditions are not undertaken, for Y/3/22/OUT to satisfaction, it is understood that an Enforcement Notice or Stop Notice can be administered by ADC.

The details of pre-commencement conditions are flagged up below, because it is observed, that there are allegedly no evidential details available otherwise on the website, to indicate that they have been undertaken to satisfaction, from the conditions advised on 12/1/23.

a). ***Item 7: 'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted by the applicant and approved by the Local Authority.'***

A 'walk over' and a couple of trenches would not be sufficient alternatively. See 'Reason': ALP HER DM6 and concerns why this could not be undertaken after build commences.

See also details from the Archaeology Advisor (consultation) James Kenny 10/2/22 on which the condition appears to be based. Also Development Archaeology Assessment Services Ltd. desk top survey report for Landlink, 19/1/22, advised of many archaeological finds in the area excluding monuments. Suggested mitigation states:

' It is suggested that investigation is undertaken ((on site)) post determination in advance of development. The details of any investigation to be determined after consultation with the LPA's appointed archaeological advisor. Such a process may be secured by the placing of an appropriate Condition on any forthcoming permission'.

I could find no confirming details that this pre- commencement condition has been fulfilled, or when scheduled to be undertaken instead.

b) **Item 8: ‘No development shall take place** apart from enabling works etc., until a Construction and Environmental Management Plan and Site Set-up Plan, has been approved in writing by the LPA, who shall consult with National Highways, WSCC highways and the Councils Environmental Health Officer and Ecologist as appropriate’.

Details of compliance requirement advice were listed in addition.....

‘Thereafter the Approved Plan shall be implemented and adhered to throughout the construction period’.

*Reason:’ Which also indicates the necessity for the above as a **pre-commencement condition** because it is necessary to have the construction site set up agreed prior to access by construction staff’.*

c) **Item 9: ‘Prior to commencement of construction works** details of a proposed foul drainage system shall be submitted to and approved by the LPA, in consultation with Southern Water (including details of its siting , design and subsequent management/maintenance), and no dwelling shall be occupied until works for the disposal of sewage have been fully implemented in accordance with the approved details.....’

*Reason: ‘To ensure the proposed development has satisfactory means of disposing of foul sewerage in accordance with policies then listed. This is required to be a **pre-commencement condition** because it is necessary to implement the foul water system prior to commencing any build works’.*

d) **Item 10: ‘Development shall not commence** apart from enabling works until a full details of the proposed surface draining scheme has been submitted and approved..... by various sources and requirements as listed’.

*Reason: ‘To ensure that the site is properly drained in accordance with listed policies. This is required as a **pre-commencement condition** because it is necessary to implement surface water drainage system prior to commencing any building works’.*

e) **Item 11:** Relates to similar requirements as not to progress above dampproof level. Again, until or unless the requirements and policies have been adhered to as listed.

f) **Item 74:** It is observed that this is a condition relating to acoustics and noise both external and internal to properties regarding aspects of compliance. It would also relate to the effect of ASHP installations. It is of note that acoustics are required to be investigated for implementation as a condition, for approval to this application. But was denied to be included in objection as allegedly non-compliant for an associated application Y/52/23 /PL.

5.The above items 7,8,9,10 and 11 have been listed as above, because as stated, no details in confirmation have allegedly been put out, that any of the pre- commencement conditions have been undertaken to satisfaction.

Concerns regarding water, drainage, sewerage, highways and s106 are also major factors regarding the site, to the local environment, and residents generally.

As it has been indicated that Boklok are intending to commence works imminently, it is apparent that pre-commencement conditions are required to be undertaken as soon as possible, before they do.

If confirming details in this regard are not made apparent on the website for Y/3/22/OUT, the only alternative may be an avalanche of FOIs instead , which for all concerned are best avoided?

Regards,

Mrs. Dilys Lownsborough
The Potting Barn, No5 Hobb Court, Bilsham Rd. Yapton BN18 OJY

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Arun District Council, Civic Centre, Maltravers Rd
Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk

To register to receive notifications of planning applications in your area please go to
<https://www1.arun.gov.uk/planning-application-finder>



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Sent: Monday, March 11, 2024 11:50 PM

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

Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>

Subject: Comment ref. pre- commencement conditions and conditions for Y/3/22/OUT

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Dear Mr. Davis,

Please find enclosed as attachment details regarding observations regarding the pre- commencement conditions for the Boklok development for Land West of Bilsham Lane.

Please also find enclosed FOI requests as also contained.

Regards

Dilys Lownsborough