Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
S106/24/0002
Vineyards, Old London Road, Washington, Pulborough, West Sussex, RH20 3BN

DESCRIPTION:
Modification/ Discharge of Planning Obligations to approved application DC/20/0717 to remove the requirement to provide an affordable housing contribution.

RELEVANT PLANNING HISTORY:

DC/20/0717	Demolition of existing dwellinghouse and erection of 16no residential dwellings (C3) with associated works	Application Permitted on 15.09.2020

PLANNING ASSESSMENT;

This application concerns the grant of planning permission pursuant to ref: DC/20/0717 and the provisions of the S.106 agreement accompanying that consent.

As explained within the covering letter accompanying the application seeks the removal of an affordable housing contribution (£79,500) due under the terms of the S.106 Agreement at Schedule 2.

As advanced by the applicant the original application was subject to independent viability assessment at application stage which revealed that the development could not support the delivery of on-site affordable housing or an equivalent contribution for off-site delivery on a viable basis. An updated 'Financial Viability Review Update' has been provided in conjunction with this application, and which similarly advances the non-viability of on-site affordable housing delivery, or a contribution for off-site delivery, as a reflection of increased construction costs and risk to the developer.

The off-site affordable housing contribution incorporated into the S.106 agreement reflects an offer made by the applicant (by way of email correspondence dated 06.07.2020) to provide a commuted sum equivalent to the provision of the delivery of one shared ownership unit. Within the same correspondence the applicant expressly requested that the sum be secured within the S.106. The precise figure (£79,500, index linked) was discussed with the case officer within correspondence dated the same day, with no objection raised by the applicant as to the sum requested to be sought within the S.106 agreement.

Significantly, the applicants offer post-dated the independent viability process undertaken in advance of the officer recommendation and would have been made in the knowledge and outcome of the viability exercise. There is no indication, as suggested within the covering letter now provided, that the affordable housing contribution was offered in response to delays encountered at applications stage and to avoid the uncertainty of an appeal.

The S.106 agreement completed in association with ref: DC/20/0717 remains fewer than 5-years of age. The relevant period stipulated at S.106A(4) to the Town and Country Planning Act 1990, therefore, has not expired and this application is accordingly not made pursuant to S.106A(3). While the applicant is entitled to seek the agreement of the Council to modify the S.106 agreement pursuant to S.106A(1)(a), there is no obligation on the Authority to agree to modify the terms of the agreement under this provision.

In this instance, given that the relevant contribution was offered willingly by the applicant and in full knowledge of the viability position established prior to determination, and that the contribution remains necessary to make the development acceptable in compliance with CIL Regulation 122, the Council is not willing to modify the S.106 agreement to the requested effect. The application to modify the terms of the agreement, therefore, is refused accordingly.

Recommendation: Application Refused

Reason for Refusal:

1.) The request to modify the planning obligations imposed by the S.106 agreement attached to ref: DC/20/0717 is made in advance of the expiry of the relevant period stipulated within S.106A(4) of the Town and Country Planning Act 1990 and, as such, is not made pursuant to the provisions of S.106A(3) of the Town and Country Planning Act 1990. In light of the circumstances in which the financial contribution secured at Schedule 2 to the S.106 was offered by the applicant, and given the contribution remains necessary in lieu of the delivery of onsite affordable housing, the Local Planning Authority does not agree to the removal of the obligation securing this contribution by way of agreement pursuant to S.106A(1).

POSITIVE AND PROACTIVE STATEMENT
Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

DELEGATED

Case Officer sign/initial Giles Holbrook Date: 05.08.2025

Authorising Officer sign/initial Adrian Smith Date: 05/08/2025