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Ref: DJ/GF/SX5010
Date: 31st January 2020

The Planning Department
Adur & Worthing Council
The Shoreham Centre
2 Pond Road
Shoreham-by-Sea
West Sussex
BN43 5WU

Dear Sir/Madam

Re: – S.106A Application to amend the completed S.106 agreement to planning permission application No. AWDM/0501/12 - Nos. 79-81 Brighton Road, Shoreham

I am writing to you with regards to a Section 106A application to amend the S.106 agreement pursuant to planning application No. AWDM/0501/12. It is understood that the Council do not have a prescribed form for this application. Therefore, please take this letter and enclosed draft Deed of Variation as an application under S.106A to amend the legal agreement pursuant to application AWDM.0501/12.

This application seeks the refund of the £87,500 highway contribution paid by the Applicant on the basis that it does not meet the CIL regulation tests and therefore it is no longer required and does not serve a useful purpose. The full grounds for the application are set out in the submitted Planning Statement and summarised below.

The S.106 agreement dated the 7th October 2013 required a highway contribution totalling £87,500 to be paid towards the provision of sustainable highway improvements relating to the site. This was paid in full by the Applicant on the 4th July 2017. The Council has confirmed receipt of this payment and also that it remains unspent.

In parallel with the legal agreement, the Applicant is also carrying out improvements to the local highway network at its own expense pursuant to a S.278 Agreement (i.e. it is now itself carrying out sustainable highway improvements as was envisaged by the legal agreement to be paid for by the highway contribution). It is therefore the Applicant's view that the S.106 highway contribution is to be spent on the same works that the Applicant is delivering as part of the S.278 Agreement. It follows that the £87,500 highway contribution is no longer required to be spent by the Council on these improvements as the Applicant has now satisfied this requirement by implementing such works pursuant to the S.278 Agreement.

In this context, it is clear that the highway contribution that was agreed as part of the S.106 to fund highway safety improvements is in fact being delivered by WN Developments at their own expense as part of the S.278 Agreement. As such, the highway contribution requested in the S.106 is no longer required and to expend the highway contribution notwithstanding the works being carried out under the S.278 Agreement is, in effect, 'double-dipping' (i.e. the Council will have secured double the amount of highways mitigations measures than is necessary for the development).

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Furthermore, in correspondence with the Council, the Council has advised that it is intended to spend the highway contribution under the heading of the Shoreham Harbour Regeneration Strategy. This project post-dates the consideration of application AWDM.0501/12 and therefore is not fairly and reasonably related (in scale or kind) to the development that was granted planning permission. Therefore, this does not meet the tests for planning obligations set out in the Framework and also the Community Infrastructure Level Regulations 2010.

It is our understanding that there is no formal form available for this type of application and so this letter and the supporting documents are considered to be the complete application.

The following has been attached as part of this application:

- Drawing 13025 PLA3 000 A – Location Plan
- Supporting Planning Statement
- S106 Draft Deed of Variation

I would be grateful if you could please confirm receipt of this application please.

If you require any further information, please do not hesitate to contact me.

Kind Regards



Graeme Free BSc (Hons) MA MRTPI
Associate Planner

Enc: As above