

Rawlings, Sam

Subject: FW: Land to the south of Romsey Avenue Fareham (S106) P/18/1073/FP APP/A/720/W/21/3271412
Attachments: S106-UU (17.8.21).docx

Subject: Land to the south of Romsey Avenue Fareham (S106) P/18/1073/FP APP/A/720/W/21/3271412

Dear colleagues

Please see attached a further revised draft picking up the agreed matters in the version circulated this evening by the appellant's solicitor but clearly noting remaining matters for resolution/agreement from the Council's perspective.

I am awaiting instructions on the remaining points in schedules 4, 5 and 6.

Regards, Donna

Donna Lee

Solicitor
Senior Legal Adviser - Planning and Environment (Locum)
for Head of Law and Governance and Monitoring Officer
Hampshire Legal Services,
Hampshire County Council,
Corporate Services, Ell South,
The Castle, Winchester,
Hampshire SO23 8UJ

Subject: Land to the south of Romsey Avenue Fareham (S106) P/18/1073/FP APP/A/720/W/21/3271412

Dear colleagues,

I'm disappointed that you have circulated a draft to PINS that does not incorporate the revisions as set out in the draft returned to you on Monday (attached), particularly those related to the indexation definition tweaks.

In terms of the Inspector's questions:

- (i) 'Bird Conservation Area' definition – keep in as the definition of "Development" refers to this, but amend the definition to read "as described in Plan 2"
- (ii) County Council's Monitoring Fee – please see the cabinet decision report attached which justifies the HCC position and the cost sought. The DC
- (iii) 'Development' definition - the outline proposal for residential development of 225 dwellings, Bird Conservation Area and area of public open space with all matters reserved except for access carried out pursuant to the Permission granted in accordance with the Planning Application and any Reserved Matters Approval
- (iv) 'Land' definition simply relates to the part of the Site in the Owner's ownership and as described in Plan 3. There are no requirements under the s106 related to access under the s106
- (v) Schedule 3 – reference to flat rate is to be deleted. The £940 sum to refer to 5 or more bed Residential Units

- (vi) Schedule 4 education – the to pay obligation is an obligation under s106(1)(d). The not to do obligation is an obligation under S106(1)(a). The s106(1)(a) obligation is enforceable by injunction under S106(5). S106(1)(a) obligation to pay is not enforceable by injunction under S106(5) as damages are an adequate remedy. The ‘to pay’ obligation can be enforced by a debt claim only. We need to express the obligations in those ways to be able to rely upon all legal remedies in the event of breach. This is how planning obligation are usually secured in the best interests of the Councils.
- (vii) Schedule 5 – countryside obligations in paras 1 and 2 – see comment above under para (vi)
- (viii) Schedule 6 – Travel Plan Bond: the purpose is to secure the delivery of the obligations under the approved travel plan. If the obligations are not delivered, then HCC can call on the bond to cover the cost to HCC for delivering the Travel Plan obligations.

I will take instructions on the remaining points in schedules 4, 5 and 6 and come back to you all.

Regards, Donna

Donna Lee
Planning and Environment
Solicitor (Locum)

For Head of Law and Governance and Monitoring Officer
Hampshire Legal Services,
Hampshire County Council,
Corporate Services, E11 South,
The Castle, Winchester,
Hampshire SO23 8UJ

Subject: RE: Inspector Questions on the UUs

Thank you Hilary

I agree with your comments below and that is what I am working on. I had the same queries as you as highlighted below.

Kind regards

Paul

Paul Weeks
Senior Associate

Subject: RE: Inspector Questions on the UUs

Thanks Paul. Apologies for missing this part of the inquiry, but I have gone back and watched the comments on the live stream.

Richard Wright has gone to HCC officers directly to raise the points that the inspector raised with regard to HCC obligations. We are also checking the affordable housing question.

With regard to the ‘technical’ points on the two UUs, I had the following suggestions/observations in response to the inspector’s comments/questions:

BCA

- Definition of Bird Conservation Area – not sure what inspector was referencing when she said about the titles being different, but I wonder if it is that the drawing name of the plan says 'geese area' and not bird conservation area?

Principal

- Delete definition of "Bird Conservation Area" – I don't think it's needed.
- Renumber Plans 1 and 3 as Plans 1 and 2
- Insert descriptions of what is shown on the plans as well as the drawing numbers – Plan 1 shows the Site, Plan 2 shows the Land. The inspector made a comment about Plan 3 showing the access road, but the version I have of Plan 3 does not show the access road, so perhaps this was just confusion about the plan numbering/descriptions which might be remedied by adding to the definitions.
- Delete reference to flat rate in Bird Aware Solent Contribution in Schedule Three – my comments from earlier today refer.

I'll wait to see your revised drafts before commenting further, understanding the need for urgency.

Thanks
Hilary

Hilary Hudson, Solicitor
Southampton & Fareham Legal Partnership
Southampton City Council
Civic Centre, Southampton, SO14 7LY

Subject: Inspector Questions on the UUs

Dear Hilary and Donna

The Inspector has raised a number of questions on the UUs. Attached are copies of the UUs with my notes of what the Inspector raised. You will see that a lot of the points here are actually questions about the calculation of contributions and how they are justified. These are probably points that you will want to consider.

There were also a couple of technical points and some questions about the plans which I am looking at. It may be now that we can take the BCA plan out of the main UU.

I had just prepared revised versions of both UUs, with the revised main UU picking up most of Donna's last comments. The revised BCA UU will pick up on Hilary's comments. I will circulate these asap after checking for any further changes that need to be made in light of the Inspector's comments.

Kind regards

Paul