

## Planning Committee

- Date and Time - **Thursday 16 January 2020**  
**9:30am – 1:00pm and 2:00pm until close of business**  
(At the discretion of the Chairman, the timing of lunch may be varied)
- Venue - **Council Chamber, Town Hall, Bexhill-on-Sea**
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### Councillors appointed to the Committee:

J. Vine-Hall (Chairman), S.M. Prochak (Vice-Chairman), Mrs M.L. Barnes, T.J.C. Byrne (ex-officio), S.J. Coleman, G.C. Curtis, Mrs D.C. Earl-Williams, S.J. Errington, A.E. Ganly, J.M. Johnson, L.M. Langlands, A.S. Mier, G.F. Stevens, R.B. Thomas and H.L. Timpe.

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## AGENDA

### 1. MINUTES

To authorise the Chairman to sign the minutes of the meeting of the Planning Committee held on the 17 December 2019 as a correct record of the proceedings.

### 2. APOLOGIES FOR ABSENCE AND SUBSTITUTES

### 3. ADDITIONAL AGENDA ITEMS

To consider such other items as the Chairman decides are urgent and due notice of which has been given to the Head of Paid Service by 12 noon on the day preceding the meeting.

### 4. DISCLOSURE OF INTEREST

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

### 5. DEVELOPER RE-NEGOTIATIONS OF SECTION 106 AGREEMENTS IN RELATION TO AFFORDABLE HOUSING (Pages 1 - 2)

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**All Planning Committee meetings are audio recorded.**

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**Tel: 01424 787811**

**Rother District Council aspiring to deliver...  
an Efficient, Flexible and Effective Council, Sustainable Economic Prosperity,  
Stronger, Safer Communities and a Quality Physical Environment**

6. **APPEALS** (Pages 3 - 6)

7. **TO NOTE THE DATE AND TIME FOR FUTURE SITE INSPECTIONS**

Tuesday 11 February 2020 at 8:30am departing from the Town Hall, Bexhill.

Dr Anthony Leonard  
Executive Director

Agenda Despatch Date: 8 January 2020

## Rother District Council

Report to	-	Planning Committee
Date	-	16 January 2020
Report of the	-	Executive Director
Subject	-	Developer Re-Negotiations of Section 106 Agreements in Relation to Affordable Housing

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### **Recommendation:** It be **RESOLVED:** That:

- 1) the practice to report any variations to Section 106 Agreements that relate to financial matters (including affordable housing) to the Planning Committee for decision continues;
  - 2) where an applicant has submitted a proposal to the Local Planning Authority (LPA) to vary Section 106 agreements within five years of the original agreement (under Section 106 (1)(a)) the decision as to whether the LPA accept and consider the submission is made by the Planning Committee; and
  - 3) the criteria in which the Planning Committee consider proposals under Recommendation 2 above to be agreed by officers in consultation with the Chairman and Vice-Chairman of the Planning Committee.
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### **Introduction**

1. At Planning Committee on 12 September 2019 it was resolved that a report be submitted to the Planning Committee confirming the current arrangements in relation to the renegotiation of affordable housing in Section 106 Agreements and an analysis of the affordable housing element of the Section 106 Agreements that have been re-negotiated detailing how many and the quantum in the past two years. A report was then presented to Planning Committee on 14 November 2019 - *Developer Re-Negotiations of Section 106 Agreements in Relation to Affordable Housing* (Minute PL19/85 refers).
2. The Chairman of Planning Committee has now requested a report seeking to change the rules so that decisions to agree to modify Section 106 Agreements in relation to financial matters, affordable housing or financial contributions in relation to affordable housing come to the Planning Committee. Furthermore where an applicant has submitted a proposal to the Local Planning Authority (LPA) to vary Section 106 agreements within five years of the original agreement (under Section 106 (1)(a)) the decision as to whether the LPA accept and consider the submission is made by the Planning Committee.
3. Currently, there is an officer delegation at paragraph 3.1.10 of the Council's Constitution: Delegations to Officers, which states:

*Acting in conjunction with the Solicitor to the Council to authorise Section 106 Planning Obligations or authorise the modification of existing Section 106 Planning Obligations which relate to planning control matters. (Any*

*Obligations that relate to financial matters are to be reported to Planning Committee).*

4. A planning obligation (i.e. a Section 106 Agreement) can be modified or discharged by agreement (at any time) between the Council as Local Planning Authority (LPA) and the person(s) against whom it is enforceable (as set out in Section 106A(1)(a) of the Town and Country Planning Act 1990 (as amended)) i.e. where both parties agree
5. Alternatively, Section 106A(3) of the Act provides that a person(s) against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period (which is 5 years from when the agreement was entered into), apply for the obligation (a) to have effect subject to such modifications as may be specified in the application; or (b) to be discharged. If this is refused by the LPA, Section 106B of the Act states that such applications can be appealed to the Secretary of State (SoS) (i.e. The Planning Inspectorate).
6. In summary, planning obligations can be amended at any time with the agreement of the LPA. Or, where the LPA does not agree and the planning obligation is more than five years old, the developer can make a formal application under Section 106A(3) to modify or discharge the agreement.
7. An alternative approach to the above open to applicants is for them to submit a fresh planning application (either outline or full) and seek to re-negotiate any obligation requirements as part of a new proposal. This is likely to result in further expense to both the LPA (possible free submission) and an applicant which may impinge further on the viability of the scheme. There is a right of appeal if such an application is refused by the LPA (through the Planning Committee).

## **Conclusion**

8. It is proposed to continue the practice that all variations to Section 106 Agreements that relate to financial matters (including affordable housing) are to be reported to the Planning Committee for decision.
9. Where an applicant has submitted a proposal to the Local Planning Authority (LPA) to vary Section 106 agreements within five years of the original agreement (under Section 106 (1)(a)) the decision as to whether the LPA accept and consider the submission is made by the Planning Committee, and the criteria in which the Planning Committee consider proposals to be agreed by officers in consultation with the Chairman and Vice-Chairman of the Planning Committee.

Dr Anthony Leonard  
Executive Director

## **Risk Assessment Statement**

It is important that legal advice is received on variations made by applicants to vary the Section 106 Agreement to ensure the Council does not expose itself to legal challenge.

**Rother District Council**

Report to - Planning Committee  
 Date - 16 January 2020  
 Report of the - Executive Director  
 Subject - Appeals

**Recommendation:** It be **RESOLVED:** That the report be noted.

**Head of Service: Tim Hickling**

**APPEALS LODGED**

RR/2019/1647/P (Delegation) BEXHILL: 64 Cooden Drive, Bexhill  
 Erection of fence panels on top of existing wall and pedestrian entrance. (Retrospective)  
 Mr Seth Bowen

RR/2019/581/P (Delegation) BEXHILL: 128 Dorset Road, Lindsay Hall, Bexhill  
 Erection of 3 No. dwellings together with access drive and parking spaces to rear garden with access via Tiverton Drive.  
 Complete Building Design Limited

RR/2019/1644/P (Committee - Member Reversal) PETT: Warren Cottage – Land at, Pett Level Road, Pett Level, Pett  
 Erection of two detached houses together with detached garages and associated works.  
 Ms S. Jeffries

RR/2019/306/P (Delegation) SEDLESCOMBE: The Oast, Battle Barn Farm, New Road, Sedlescombe  
 Reinstatement of cast roundel including conical roof and cowl. Replacement of concrete tiled roof with clay tiles. Demolition of existing conservatory, erection of new orangery and ground floor bedroom. Cladding of first floor of main building.  
 Mr Michael Ashenheim

**APPEALS STARTED**

RR/2019/657/P (Delegation) BEXHILL: Whydown Place, Whydown Road, Bexhill  
 Proposed development of a four bedroom house with a detached garage and all associated works.  
 Mr Jonathan Hodge

RR/2019/285/P (Delegation)	HURST GREEN: 47 London Road – Land at, Hurst Green Proposed bungalow. Pump House Estates (SE) Ltd
RR/2019/2137/T (Delegation)	IDEN: Orchard Field, Grove Lane, Iden T1 – Oak – Fell. Mrs Stella Halmshaws
RR/2019/515/P (Delegation)	SALEHURST/ROBERTSBRIDGE: 18 Coronation Cottages Erection of a three bedroomed dwelling with access and parking, including parking for house No. 18. Mr and Mrs Andrew Lynch

### **APPEALS ALLOWED**

RR/2019/454/P (Committee - Member Reversal)	BEXHILL: Olivers Printers, Eastwood Road, Bexhill Variation of Conditions 2, 14, 15 and 17 imposed on RR/2018/2052/P to allow garden levels to be raised and retaining walls constructed around the gardens. Park Lane Group
RR/2019/230/P (Delegation)	BEXHILL: De La Warr Heights, 1 Marina, Bexhill Change of use of the existing ground floor from commercial to residential to form four residential units with alterations to access, terraces and fenestration. Mardan (Bexhill) Limited
RR/2018/3132/P (Delegation)	BREDE: Spelland Oasts Barn, Goatham Lane, Broad Oak, Brede Change of use of holiday let to single dwellinghouse. Heritage Holiday Homes Ltd
RR/2018/3172/P (Delegation)	BREDE: Spelland Oasts Barn, Goatham Lane, Broad Oak, Brede Removal of Section 106 Agreement relating to Planning permission RR/2003/358/P (conversion of redundant barn to holiday lets). Heritage Holiday Homes Ltd
RR/2018/1236/P (Delegation)	CROWHURST: Fordlands, Crowhurst Road, Crowhurst Proposed erection of two storey ancillary building together with new parking area. Mr and Mrs M. Lear
RR/2019/2012/P (Delegation)	SEDLSCOMBE: The Oast, Battle Barn Farm, New Road, Sedlescombe Reinstatement of Oast roundel including roof and cowl, replacement of concrete tiled roof with clay tiles, demolition of existing conservatory and erection of orangery and ground floor bedroom, cladding of first floor of main barn with charred black British larch and minor alterations to fenestration. Mr Michael Ashenheim

## **APPEALS DISMISSED**

RR/2019/287/P (Delegation)	BATTLE: Punch Bowl Farm, Whatlington Road, Battle Demolition of redundant barn and erection of dwelling. Ms L. Earnshaw-Brown
RR/2019/819/P (Delegation)	BEXHILL: 4 Sackville Mews, Bexhill Change of use from holiday letting (sui Generis) to two self- contained dwellings (C3). Mr Jason Davison
RR/2018/274/P (Delegation)	BEXHILL: Former Sidley Sports Ground, Glovers Lane, Bexhill Outline: Development of part of existing disused sports field for up to 54 dwellings, and re-siting and re-laying of existing grass playing pitch. Access, roads, footpaths, garages, car park areas, open space and ancillary development. (All matters except access reserved). Beaulieu Homes (Southern) Ltd
RR/2018/527/T (Delegation)	BEXHILL: 48 Wealden Way, Bexhill Removal of three oak trees on tree line along rear garden boundary. Sussex Tree Surgery
RR/2018/350/P (Delegation)	CROWHURST: Fordlands, Crowhurst Road, Crowhurst Proposed erection of ancillary building to provide garages, storage, gym and guest accommodation, together with new parking area. Mr and Mrs M. Lear
RR/2019/2067/T (Committee - as report)	EWHRST: 18 Weald View, Oak Cup, Staplecross, Ewhurst T1 – Oak – Fell. Mr John Simmons
RR/2018/1245/P (Delegation)	WESTFIELD: Kilnwood Farm, Moor Lane, Westfield New agricultural barn for the storage of hay and feed. Mr Paul Adams

## **APPEALS WITHDRAWN**

NONE

## **FORTHCOMING HEARINGS/INQUIRIES**

RR/2018/1814/T (Delegation)	SALEHURST/ROBERTSBRIDGE: 1 Blenheim Court, George Hill T1 – Horse Chestnut Tree – Fell. Mrs A. Stevens Informal Hearing – Date, time and venue to be advised
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RR/2019/2014/T  
(Delegation)

GUESTLING: Little Broomham – Land in front, Church Lane  
Hedge clipping to all sides and tops of Holly hedges.  
Mr C. Pickerill  
Informal Hearing – Date, time and venue to be advised

Dr Anthony Leonard  
Executive Director