
Site Address:	Pebble Walk, Sinah Lane, Hayling Island		
Proposal:	Variation of S106 relating to Schedule 5 (Open Space), clause 3.1 (APP/20/01093)		
Application Type:	Variation of Section 106		
Application No:	APP/23/00293	Expiry Date:	20/06/2023
Applicant:	Rachel Ballam Barratt Homes		
Agent:		Case Officer:	David Eaves
Ward:	Hayling West		

Recommendation:

1 Site Description

The site lies to the north of Sinah Lane on Hayling Island and is a residential development site granted planning permission under application reference APP/20/01093 for the erection of 195 dwellings together with associated works.

2 Planning History

APP/18/00724 - Erection of 195No. dwellings, associated open space, pumping station, sub-station and formation of new vehicular access off Sinah Lane. Change of use of land from agricultural to a Wader and Brent Geese Refuge Area, APPEAL WITHDRAWN,20/08/2021

APP/20/01093 - Erection of 195No. dwellings, associated open space, pumping station, sub-station and formation of new vehicular access off Sinah Lane. Change of use of land from agricultural to a Wader and Brent Geese Refuge Area (Resubmission of APP/18/00724) (30.6.21). Request to Discharge Condition Nos. 3, 4, 6, 7,11,12, 13, 14, 20, 22, and 23 (recd 5.7.21) Request to Discharge Condition 18 (recd 17.3.22). Request to discharge condition 18 (06.07.22).Request to discharge conditions 6 and 14 (29.03.23). Request to Discharge Condition 6, 11 and 14 (20.12.23). Request to discharge condition 19 (30/05/2024)., PERM,30/06/2021

Officer Comment: The S106 Agreement proposed to be amended is related to this planning permission.

APP/21/00419 - Submission of a Full Planning Application for the erection of a Temporary Sales Cabin including car parking on the land at Sinah Lane, Hayling Island. This application is associated with the development proposed under planning reference: APP/20/01093, which has the benefit of a resolution to grant planning permission., WD,18/05/2022

APP/21/00420 - Display of 5No. illuminated with downlighter double sided post mounted signs, 2No. flag poles and 4No. flags, 1No. non-illuminated fascia sign, 2No. pavement sign, 1No. window vinyl, 1No. post box., WD,29/11/2021

APP/21/00766 - Display of 1No. MSM Tri-sign and 2No. flag pole signs., WD,29/11/2021

APP/21/00857 - Variation of conditions 2 and 5 of Planning Permission APP/20/01093 (Erection of 195No. dwellings, associated open space, pumping station, sub-station and formation of new vehicular access off Sinah Lane. Change of use of land from agricultural to a Wader and Brent Geese Refuge Area) to replace approved Winter Bird Mitigation Strategy (containing Winter Bird Mitigation Plan) with an updated document which shows a temporary access via a new farm gate (2m tall) at the northern end of North Shore Road to facilitate access into the Winter Bird Mitigation Area by the RSPB for the purpose of maintenance and management, until such a time as the Area may be safely accessed via the previously approved access. , WD,06/06/2022

APP/22/00304 - Display of 1No. development site marketing panel. , PERM,28/06/2022

APP/22/00446 - Extension to front to form double garage., PERM,15/07/2022

APP/22/00639 - Erection of 1.8m high wall serving entrance to residential development approved under APP/20/01093. Repositioning 2 no. trees to accommodate wall., PERM,26/08/2022

APP/22/01132 - Erection of 1.8m high wall serving entrance to residential development (resubmission of APP/22/00639). Repositioning of 2No.Trees to accommodate wall., PERM,24/01/2023

APP/23/00157 - Display of 14No non Illuminated double sided post mounted signs, 3No. Non-illuminated house name plaques, 1No. Sales cabin fascia, 6No. Window vinyls, 1No. Sales centre clock, 1No. Post box sign. , PERM,21/07/2023

APP/23/00724 - Application for Non-material change to Planning Permission APP/20/01093 relating to installation of PV panels to the plots shown as green blocks highlighted on drawing No. BAR-PEB-500Rev A to accord with new Building Regulations., PERM,22/02/2024

3 Proposal

The current proposal relates to the Variation of S106 relating to Schedule 5 (Open Space), clause 3.1 (APP/20/01093).

The original S106 Agreement is dated 28th June 2021 - Schedule 5 (Open Space), clause 3.1 currently states:

3 *Open Space Lane*

3.1 Not to Occupy or permit Occupation of more than 10 Dwellings forming part of Phase 1 of the Development until the Open Space Land forming part of Phase 1 has been completed in accordance with the details approved in writing by the Council.

In respect of the Residential Development Land only, paragraph 3.1 of Schedule 5 of the Original Agreement is proposed to be deleted and replaced as follows:

3.1 Not to Occupy or permit Occupation of more than 190 Dwellings until the Open Space Land forming part of Phase 1 has been completed in accordance with the details approved in writing by the Council.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)

DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

N/A

Emsworth Neighbourhood Plan Post Examination Version 2020

N/A

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

No comments received.

Chichester Harbour Conservancy

No comments received.

Community Infrastructure

No comments received.

County Waste Management

No comments received.

Engineering/Drainage

No comments received.

Environment Agency

No comments received.

Langstone Harbour Board

No comments received.

Natural England Government Team

No comments received.

Property Management (formerly County Estates Department) Hampshire County Council

No comments received.

6 Community Involvement

The application is to vary a legal agreement in relation to the provision timing detail of an element of the open space provision and is not subject to the usual publicity requirements.

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 10 Objections – Please note that the revisions relating to Orchard provision have now been removed from the application.

Comment	Officer Comment
Concern regarding trust in developers and continuous breaches of planning conditions since the site opened (believe over a thousand such incidents that continue to occur).	Concerns noted.
Appears no valid reason to change plan signed up to other than potential financial gain.	The impact of the change is assessed below.
On past performance don't believe anything they say and believe its unlikely Orchard and green space will ever appear if delay allowed.	Change to orchard provision no longer proposed. Impact on open space considered below.
Council should act in interests of residents (new and old) and maintain agreed plan rather than in the interests of a large corporate body with no interest in the area, environment and here only for profit.	Concerns noted, however impacts of the proposed change need to be considered.
Thinly veiled attempt by Barratt to never build open spaces or orchard.	Orchard removed from application. Open space considered below.
No valid reason why original plan won't work – serves one purpose: financial gain for Barratt by removing obligations.	Obligation remains in place but with amended timing provision.

Can't be trusted to deliver on promises, HBC should not let them get away with it – will be delayed 5-10 years and never delivered impacting on new residents on site.	The implications of the change are considered below.
By agreeing to proposal developer will delay landscaping until future phases complete. Such phases do not have a date for completion so environment will be left as is. Detrimental impact on neighbouring properties.	The impact of proposal considered below together with current condition of landscaped area.
No need to modify until final completion. Phase 1 residents should have the orchard associated and near their homes for well being and mental health as they will have to bear with building site for a few years – therefore green space and orchard should be completed as planned and not deferred for that reason.	Orchard requirements remain unchanged. Open space considered below.
Variation if approved would give Barratt Homes the possibility of never making the proposed orchard - delaying it until the last phase complete. If they decide not to built the last phase or put it on hold then their obligation will lapse.	The Orchard provisions are now unchanged.
Very important to fulfil the promised open spaces and orchard as planned for the look of the development in area that was previously one of natural beauty. Wildlife already disturbed, the housing is incredibly close together and has ruined the natural outlook for residents. These spaces should be prioritised rather than put off.	The Orchard provisions are now unchanged. Open space considered below.
Should be refused. Orchard and open space not only for new residents but the wider area and should be brought on line as agreed in S106. Should not be allowed to push important space to end of the development to suit their own needs. Nothing changed which should result in need for change. If change granted and Barratts decide not to continue with Phase 4 or put on hold for 5 to 10 years, then Orchard and green space may never be built and HBC will lose power to enforce it.	Orchard removed from proposal. Open space considered below including current landscaping on site.

Another attempt by this company to sidestep and alter the contract they agreed to.	Concerns noted.
This should be completed straight away so developer can't avoid obligation & leave it or 5 or more years as some developers do & have done before.	Concerns noted – see open space comments below.
If variation given I have little faith that requirement of Barratt's will ever happen. Once site finished Barratt's will not want to return to complete work.	The timing requirements for the open space are considered below.

7 **Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of varying the S106 Agreement and its impact on open space provision at the site.
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity

(i) Principle of varying the S106 Agreement and its impact on open space provision at the site

7.2 The S106 Agreement dated 28th June 2021 which is sought to be varied was connected to the planning permission for the erection of 195 No. dwellings etc. granted at Sinah Lane under application reference APP/20/01093.

7.3 This provided for an area of open space land (0.05ha) located in the south east part of the residential development site to the right of the access road and is within Phase 1 of the overall development as defined by the S106 Agreement and shown in Appendix 5.

7.4 The timing of the open space provision is the subject of this Deed of Variation proposal. The obligation is currently:

3.1 Not to Occupy or permit Occupation of more than 10 Dwellings forming part of Phase 1 of the Development until the Open Space Land forming part of Phase 1 has been completed in accordance with the details approved in writing by the Council.

The proposed variation to the original agreement is as follows:

In respect of the Residential Development Land only, paragraph 3.1 of Schedule 5 of the Original Agreement shall be deleted and replaced as follows:

3.1 Not to Occupy or permit Occupation of more than 190 Dwellings until the Open Space Land forming part of Phase 1 has been completed in accordance with the details approved in writing by the Council.

- 7.5 The purpose of the current obligation is in order to ensure that open space is provided within phase 1 in the interests of the amenities of the site and the character of the area. This is a useful purpose and provides for an attractive entrance into the housing site for residents and visitors to the estate.
- 7.6 The applicant has advised that: *The reasoning behind postponing delivery of Open Space Area 1 to final occupation has to do with our sales arrangement. Presently, and until final occupation, this area comprises ornamental plants and a temporary visitor parking spaces in association with our sales arena, which will remain until all plots have been sold. Subsequently the sales arena and associated parking and open space will be converted to its permanent arrangement. As such, an area of open space is available and will remain so throughout development, however, it will not be implemented strictly per plan until final occupation.* It should be noted that it has now been agreed that the trigger for completion of the open space land in Part 1 has been agreed to be prior to the occupation of more than 190 units.
- 7.7 The principle of amending the timing of the open space provision is considered acceptable in principle however the consequences of this change are considered further below.

(ii) Impact upon the character and appearance of the area

- 7.8 The open space land would provide for an attractive entrance to the residential site and provides an amenity benefit for residents and future residents of the site and visitors.
- 7.9 It is noted that the open space area is located in a part of the site which is currently being used as the developments show homes area. As such the land in question has been attractively landscaped with trees, other planting and hard landscaping and some visitor parking for the show homes. This area is therefore currently attractively laid out and already providing an amenity value for the development.
- 7.10 The site will need to eventually be laid out in accordance with details approved under condition 3 of Planning Permission APP/20/01093 unless any further changes are subsequently approved under condition 3.
- 7.11 The effect of the proposed change would allow for the provision of the public open space laid out in accordance with the details approved to be delayed from the original trigger of the Occupation of more than 10 Dwellings forming part of Phase 1 to the Occupation of more than 190 Dwellings. There are a total of 195 dwellings on the site and therefore five of the dwellings could not be occupied until the area of open space within phase 1 is laid out in accordance with the details approved in writing by the Local Planning Authority.
- 7.12 This trigger is considered to provide sufficient certainty for the provision of the open space and provides appropriate leverage for the Local Planning Authority. It is important to note that the area is already providing an attractive area of landscaping in association with the show homes.

(iii) Impact upon residential amenity

- 7.13 The open space land provides an attractive area for residents and future residents of the wider development especially as it is located adjacent to the entrance of the site. The area is already providing amenity for the development whilst the show homes and marketing of the site continues.
- 7.14 The revised trigger will continue to ensure that the open space land continues after this sales period to provide an important amenity and visual asset for residents.

8 Conclusion

- 8.1 In conclusion, details of the current obligation have been set out, and the obligation to provide the open space continues to provide a useful purpose. It is considered that the change to the timing is acceptable and it is noted that the area has been laid out attractively whilst the show homes are in place. The Deed of Variation is therefore considered acceptable.

9 RECOMMENDATION:

That the Head of Place be authorised to PERMIT a Deed of Variation for application APP/23/00293