

Archived: 10 December 2024 11:53:31

Subject: FW: 3333923 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford - EXPLORATORY MEETING [PM-AC.FID5944260]

Importance: Normal

Sensitivity: None

Attachments:

[BPC letter Chilmington Green September 2024.docx](#)

From: Jeremy Baker <[REDACTED]>

Sent: Thursday, September 26, 2024 4:32 PM

To: 'Skinner, Helen' <[REDACTED]>

Cc: Planning Applications - GT <[REDACTED]>; Planning Appeals <[REDACTED]>; 'Elizabeth Nuttall' <[REDACTED]>; Victoria Thistlewood - GT GC <[REDACTED]>; Sarah Bonser - CED GLD <[REDACTED]>; 'mharnett' <[REDACTED]>; 'Grant James' <[REDACTED]>; Simon Cole <[REDACTED]>; Faye Tomlinson <[REDACTED]>; Roland Mills <[REDACTED]>; Carissa Waterworth <[REDACTED]>; Rhonda Mickelborough <[REDACTED]>

Subject: RE: 3333923 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford [PM-AC.FID5944260] - EXPLORATORY MEETING

Importance: High

Dear Helen,
Apologies for the delay.

Attendance

This Council's main speaker at the Exploratory Meeting will be:-

Simon Bird KC of FTB Chambers, whose Clerk Mr Grant James is copied into this email.

The Council's other attendees, also copied in, are likely to include:-

1. Myself
2. Simon Cole MRTPI
3. Faye Tomlinson MRPTI
4. Roland Mills MRTPI
5. Carissa Waterworth, solicitor

Business

With reference to the question raised by Pinsent Masons for KCC below, we have been giving some thought to the business to be accomplished at the Exploratory Meeting and (without prejudice to the comments we have previously made on validity, process and procedure) have the following comments:-

- * "Application No.2", as the Appellant calls it, has already purported to progress through various iterations since it was appealed, including some partial withdrawals, many further part-withdrawals, selection of alternatives where more than one were advanced, and other amendments including most recently the addition of new material such as plans and tracked-changed versions. Prior to the commencement of any public consultation process such as the Inspector indicated in his letter, it is necessary (if possible) to establish clear documentation setting out the Appeal package for consultation. It would be unfair/unacceptable for consultees to be faced with a 'paper-chase' through amended versions, and indeed it is essential for any subsequent Inquiry hearings to have common documentation between the Inspector and the parties as to which amendments to the original S.106 Agreement the Inspector agrees to consider, their precise content, and a referencing/numbering system.

- * Therefore we consider that the following documents are required:-
 1. **Clean current Composite S.106 Agreement** as amended, as it stood before “Application No.2” was made, and still stands, since the changes that have been incorporated in that document would not be for comment or consultation but merely the background/starting-point. This document does not yet exist, although as a stepping-stone to this, it needs to be agreed whether the Tracked Composite S.106 Agreement as amended, which was lodged by Fladgate on 29 July, is or is not correct.
 2. **Proposed Modified S.106 Agreement**, including all of the changes (whether modifications or discharges) which the Appellant now proposes clearly-marked, and cross-referenced to a document that provides a referencing/numbering system and index. This is essential for focus, and to permit comment by the public on any one or more individual changes proposed.
 3. **Clean copy of item 2 above** – i.e. how the Composite S.106 Agreement would look if the Appeal were validly allowed and thus its proposed modifications came into force as prescribed by s.106A.
 4. **Indexed schedule and explanation of the proposed modifications** that the Inspector agrees to consider. The Appellant’s previous landscape-format tables are inappropriate to this end, in view of the widespread deletion of parts of its content, although apparently without affecting the right-hand column, which as a result contains much material that may (or may not) now be superseded/withdrawn but appears extant. This document should also contain sufficient explanations of how the Appellant’s now-proposed changes relate to each other, to enable the Inspector to finally decide which of them he agrees to consider (and hence which should be subject to consultation as referred to above).
 5. **Tailored supporting evidence/information relating only to the proposed modifications** that the Inspector agrees to consider. The Appellant’s previous evidence and supporting information are now inappropriate, in view of the widespread changes to the proposed modificationw which they purported to explain/justify. This again is required to support the proposed consultation and avoid consultees being unfairly confused or misled.
 6. **In particular, up-to-date supporting viability appraisal work.** This is needed for the same reason as the last item, but also because of the lapse of time which has meant that the figures/values/costs advanced previously no longer represent current true values. We have taken the trouble, jointly with KCC, to ask Bespoke Property Services to set out in a single letter what they consider needs to be updated and why, in order to assist the Inspector and the Appellant to know what Bespoke will require in order to analyse and comment on the evidence/claims of the Appellant in relation to viability. Please find this letter attached.
- * The formulation of any **Timetable for the Inquiry** will depend upon the process and timetable for the production and acceptance of the above documents, the consultation procedure and timescale, time for the dissemination and consideration of the consultation responses received, and time to produce Evidence in the light of them.
- * The **Consultation** should be a single, unified procedure relating to all of the changes now proposed, and should, we think, be carried out by this Council, and we confirm that we are willing to do so. Notwithstanding that there are two separate Appeals, the single consultation should cover both of them, and it needs to be upon an agreed set of documents as above, covering just the proposed changes which the Inspector agrees to consider.

We trust that the above is helpful in preparing an agenda for the Exploratory Meeting.

Kind regards,

Jeremy D.I. Baker

Principal Solicitor (Strategic Development) and Deputy Monitoring Officer

Legal and Democracy

ASHFORD BOROUGH COUNCIL

Telephone: [REDACTED] – these numbers divert to remote working locations as necessary.

From: Elizabeth Nuttall <[REDACTED]>

Sent: 26 September 2024 12:52

To: Skinner, Helen <[REDACTED]>; mharnett <[REDACTED]>; Victoria Thistlewood <[REDACTED]>;

[REDACTED] Jeremy Baker <[REDACTED]>

Cc: KCC Planning <[REDACTED]>; Planning Appeals <[REDACTED]>

Subject: RE: 3333923 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford [PM-AC.FID5944260]

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Afternoon Helen

Please can you advise if the Inspector will be providing an agenda or note ahead of the Exploratory Meeting?

Kind regards

Liz

Elizabeth Nuttall
Senior Associate



For Pinsent Masons LLP

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From: Skinner, Helen <[REDACTED]>

Sent: Thursday, September 26, 2024 12:00 PM

To: mharnett <[REDACTED]>; Victoria Thistlewood <[REDACTED]> Jeremy Baker <[REDACTED]>

Cc: [REDACTED]; Planning Appeals <[REDACTED]>

Subject: [EXTERNAL] 3333923 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford

Importance: High

Good afternoon,

Please see attached the invitation to next week's exploratory meeting – please share it with your teams – I've bcc'd it to the attendee email addresses I've been provided with.

Jeremy – please could you provide me with Ashford's attendee and spokesperson details, which I still don't appear to have received.

Kind regards

Helen



The Planning
Inspectorate

Helen Skinner

Inquiries & Major Casework Team Leader
The Planning Inspectorate



@PINSgov



The Planning Inspectorate



planninginspectorate.gov.uk

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1

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Our ref: PG/ar

23rd September 2024

Faye Tomlinson/Victoria Thistlewood

Ashford Borough Council/Kent County Council

Dear Faye/Victoria,

CHILMINGTON GREEN

Thank you for providing a copy of the s106 agreement that includes the Appellant's proposed changes and requesting clarification of the information that will be required from the applicant in respect of viability, in order that an assessment can be carried out.

For clarification the last time we reviewed the information was in February 2023. In this regard we therefore consider that it is appropriate for the applicant to provide a new viability submission which will need to:

- a) Set out the position, in a summary document, of Appellant's proposed changes to the s106 agreement (such as the requests to reduce or remove planning obligations) from the current position to what is proposed.
- b) Confirm all drafting changes that are proposed to be made to the s106 agreement that will have an impact on any viability reviews to be carried out (including parcel changes, triggers, timings and manner) in which any review has to be carried out.
- c) Provide a masterplan of the site showing plots and parcels labelled and confirming, with an attached excel table which plot/parcel is included within each viability review phase and containing confirmation of the current ownership of each plot/parcel and the date that ownership commenced.
- d) Provide a viability appraisal for each viability review phase in accordance with the principles set out in Schedule 43 and 44 and in accordance with the Template as set out in Schedule 49 to the signed s106 agreement
- e) Provide a base infrastructure cost plan in line with the original application showing those items which items were proposed to be delivered and their dates in accordance with the original permission so that we can compare this to the current position and identify the changes that are proposed in the cashflow.
- f) Confirm at a fixed date which infrastructure items have been carried out on site, with a line-by-line description of the item and date that the items were completed (in order that these can be appropriately costed) together with a signed statement from a solicitor confirming that the amounts declared in any submitted appraisal have appropriately been accounted for. This should be provided in an open excel document showing what has been provided, which viability review phase it is contained in and what is to be provided on a month-by-

month basis so we can understand what is remaining and apply the appropriate indexation. The reason for this request is so that we can appropriately account for these amounts within the cashflow and therefore the interest applied in the appraisal.

- g) A plan of each parcel within each phase confirming what has been built in each parcel/phase and the tenure of the accommodation provided in that phase, together with confirmation of the date of sale of each unit, size of unit, together with the amount received (and if these items are not currently listed on Land Registry then a signed statement from a solicitor confirming that the amounts received are appropriately accounted for in the appraisal). This is requested to ensure that we have a full position of what has been sold, the dates and amounts of income received and the timings of those receipts so that we can appropriately account for these amounts within the cash flow and therefore the interest applied in the appraisal. This needs to be for all units delivered and the tenures achieved on site.
- h) An assessment of all commercial units that have been provided on site and location/parcel including all capital values achieved and an assessment of rental value and yield for each unit type and how this is applied in each viability review.
- i) Confirmation in an excel table of all s106 items that have been paid (amounts paid) and the dates that they were paid.
- j) Confirmation in an excel table of all s106 items remaining to be paid, the dates that they are expected and the appropriate indexation to be applied
- k) An updated viability appraisal for each review phase considered including phasing of sales (actual and planned in accordance with the proposed amendments to the s106 agreement).

We look forward to receiving this information and carrying out a site visit to verify the infrastructure delivery so that we can review any updated viability assessment accordingly.

Yours sincerely,



PETER GRIFFITHS CMCIH

Bespoke Property Consultants

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