

## Reserved Matters approvals

16.01.2018	17/01732/ AS	RM application for the construction of access maintenance layby, gas governor housing and new hedgerow planting, located adjacent to the lane near Couleter Road, and an access maintenance...
23.04.2018	17/01170/ AS	Layout, access, scale, landscaping and appearance of development at Chilmington Green for the 346 residential dwellings, which comprises of a mix of two bedroom apartments, two, three, four and five bedroom houses within Land Parcels BCJK within mina AAP Phase 1 ( Subsequent NMA approval: (29.06.2018, 17/01170/ AMND, Revision to location of sub-station within the parking court to plot 31)
13.12.2018	18/01310/ AS	RM for the development of 22 residential dwellings within Parcel Q, Main Phase AAP 1 including associated roads, parking, landscaping, open space and infrastructure (NMA approved subsequently (15.08.2019, 18/01310/ AMND/ AS Revision to design of plot 17)
10.07.2018	18/00395/ AS	RM application relating to strategic foul drainage works, which include, foul drainage and manholes, a pumping station (including access and service area) and associated works
19.07.2019	18/00207/ AS	RM approval for the development of Parcel P for 99 dwellings, together with associated access roads, footpaths, drainage, car/cycle parking, groundworks, landscaping and infrastructure (NMAs approved subsequently (11.11.2020, 18/00207/ AM01/ AS to vary brick colour) (17.02.2021, 18/00207/ AM01/ AS minor revisions to design), (12.04.2021, 18/00207/ AM04/ AS insertion of doors to 50% of car barns on plots 1 and 2), (12.04.2021, 18/00207/ AM05/ AS amended soft landscaping plans), (12.04.2021 18/00207/ AM06/ AS change to french doors on plot 91), (16.10.2020 18/00207/ AMND/ AS change to layout, landscaping and substitute house types).
14.12.2019	18/00911/ AS	RM application for the Construction of 153 dwellings on Parcels A, E and F (In part), Main AAP Phase 1, together with associated roads, parking, landscaping public open space and infrastructure
w/d	19/00417/ AS	RM application (pursuant to planning permission 12/00400/ AS) for the Community Management Organisation (CMO) First Temporary Premises at Chilmington Green
18.07.2019	19/00475/ AS	RM (pursuant to outline planning application 12/00400/ AS) for the development of 64 residential

		dwellings within Parcel Q, Main Phase AAP 1 including associated roads, parking, landscaping
20.12.2019	19/00753/AS	Electricity sub-station south east of Meadow View, Chilmington Green Road, Great Chart ( Subsequent NMA approval: (04.09.202, 19/00475/AMND/AS reposition of 3 car ports for plots 37, 49 and 58 on parcel Q2)
04.05.2020	19/1032/AS	RM for the development of 82 residential dwellings within Parcel R, Main Phase AAP 1 including associated roads, parking, landscaping, open space and infrastructure
20.09.2019	19/00733/AS	Construction of an electricity sub-station within Main AAP Phase 1, Land Parcel H at Chilmington Green – Application for Reserved Matters pursuant to condition 10 of outline permission
Not determined	21/002248/AS	RM application pursuant to planning permission 12/00400/AS to consider the layout, scale, landscaping and appearance of development for 47 residential dwellings, within land parcel K within Main AAP Phase 1
Not determined	21/02165/AS	RM application for the amended Landscaping Works to the Phase 1 Northern Gateway (Access A) at Chilmington Green pursuant to planning permission 12/00400/AS

### Full permissions

22.12.2017	17/01334/AS	Phase 1 SUDS
30.01.2018	17/01349/AS	Phase 1 SUDS at Brisley Farm (Subsequent NMA approvals: (18.05.2018, 17/01349/AMND/AS, Revision to foul water pipes for Phase 1 Brisley Farm extension at Chilmington Green), (19.07.2019, 17/01349/AM01/AS, alteration to position of swale 1 and pond 1).
06.03.2019	18/00677/AS	Variation to conditions 1,3,4&5 of 17/01334/AS to delay landscaping to pond 3, 4a and 4b.
26.07.2019	18/00382/AS	Mock Lane Highway Improvements which comprise the Access to Land Parcel G and the eastern section of Mock Lane, which include carriageway, footpath/cycleway, soft verges, foul and surface water
07.03.2019	18/01345/AS	Full application for a temporary haul road required to facilitate the development of parcels Q and R, Phase 1, in association with the outline permission for the wider Chilmington Green development
20.09.2019	19/0179/AS	Full application for the Community Management Organisation (CMO) First Temporary Premises at

		Chilmington Green (Application submitted to remove conditions 8, 9, 10, 11, 12 and 13 and vary condition 5 (validated on 23/01/2023 ref: PA/2023/0119). The purpose of this was to separate out the delivery of play space 1 from the CMO building, with Play Space 1 coming forward as a stand alone RMA).
20.02.2020	19/01170/AS	Construction of an electricity sub-station within Land Parcel CH4 of Main AAP Phase 2.
02.12.2021	21/01611/AS	Variations to conditions 1, 3, 5 and 7 of 18/00677/AS
01.10.2021	21/00839/AS	Active Travel Route to provide pedestrian access between Chilmington Avenue and the Secondary School Site Entrance.
01.10.2021	21/00840/AS	Infrastructure route which includes carriageway, footpath/cycleway, indicative locations of visitor parking bays and soft verges to the Phase 2 Avenue providing access to the Chilmington Green Secondary school (Subsequent NMA approval: (27.05.2022, 21/00840/AMND/AS alter the junction configuration at crossroads at Chilmington Avenue and Chilmington Green Road)
09.08.2023	PA/2023/0986	Erection of a bus stop (pole and flag) together with associated road marking

### **Live Reserved Matters Applications**

	22/00024/AS	Land Parcels D and H (173 units)
	OTH/2022/3142	Land Parcels F and H (96 units)
	OTH/2022/3169	Land Parcel I (145 units)
	OTH/2023/0018	Land Parcels L, M and O (217 units)
	OTH/2023/0030	Land Parcels CH1 and CH2 (114 units and District Centre)
	OTH/2023/0033	Land Parcels A1 and A2 (allotments)
	OTH/2023/0034	Land Parcel A5 (allotments)
	OTH/2023/0019	Land Parcel G10 (green space)
	OTH/2023/0032	Land Parcel S1 (Chilmington Hamlet, cricket pitch)
	OTH/2023/0035	Land Parcel DP3 (Discovery Park)
	OTH/2023/0031	Land Parcels EC6, EC7, EC8, EC17, F8 (Landscaping and Pond)
	OTH/2023/0036	Land Parcel EC9 (landscaping)
	OTH/2023/0020	Land Parcel PS1 (Play Space 1)

### **Live Full Planning Applications**

	22/00814/AS	Green Spine Infrastructure Route Extension (Phase 2)
	PA/2023/0715	Wastewater Treatment Plant



## NORTH STAR LAW

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20 October 2022

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### ALSO BY EMAIL

Dear Sirs

**In re: An agreement made pursuant to s106 of the T&CPA 1990 dated 27 February 2017 between (1) Hodson Developments (Ashford) Limited and others (2) BDW Trading Limited (3) Ashford Borough Council (ABC) and (4) Kent County Council (KCC) ('the s106 Agreement') concerning land at Chilmington Green, Ashford Road, Great Chart, Ashford, Kent ('the Site')**

**In re: Application No.1 dated 4 May 2022 to discharge and/or modify various of the obligations under the s.106 Agreement, specifically relating to Viability Review Phases 2, 3 and 4**

**In re: Application No.2 submitted under cover this letter by Hodson Developments (Ashford) Limited and others (together referred to below as 'Hodson') to discharge and/or modify multiple other of the obligations under the s106 Agreement**

#### **Application No.1 (and its validity)**

1. We refer to your letter dated 30 June 2022 with regard to Application No.1 dated 4 May 2022 ("Application No. 1") and set out our response below.
2. It will be recalled that by Application No.1, Hodson applied under s.106A to discharge and/or modify various of the obligations under the s.106 Agreement. Further, that Application No. 1 comprised a number of documents, appendices and annexes, including a document entitled "*Application No.1 First Application to modify or discharge...*", which sets out the 1) introduction; 2) relevant background; 3) the application; and 4) conclusion.
3. Section 3 "*The Application*" explained the linkage between the application materials and purpose of Annex 1 in particular, as follows:

**"3.1 In the circumstances, the Applicants apply to discharge the obligations under the s106 Agreement to make Viability Review Submissions for Viability Review Phases Two, Three and Four as more specifically set out in Column 4 of the schedule at Annex 1 hereto, for the reasons stated in Column 5 and on the basis of the evidence at Column 6..."**

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The word "partner" is used to refer to a member of the company, or an employee or consultant who is a lawyer with corresponding experience and qualifications.

4. This is then reflected as described, with 3 items listed in the table, which sets out in respect of each 'the planning obligation to be modified or discharged' (column 2); the s106 agreement reference (clause/para) (column 3); the specified modification or discharge (column 4); the reasons for applying for modification or discharge (column 5); and a summary of the Hodson evidence (column 6).
5. So far as the specifics of modification or discharge are concerned:
  - a) Column 4 is headed as follows:
 

*"Specified Modification or Discharge  
(The specified modification or discharge applied for below should be taken to include all necessary and consequential amendments to the s106 Agreement)"*
  - b) Item 1 is described as follows:
 

*"The Applicants apply for the obligation to provide a Viability Review Submission for viability Review Phase Two to be discharged entirely; deleting paragraphs 2.1.1 and 3.18.2 and reference to Viability Review Phase Two in paragraphs 3.2-3.10 and making all other appropriate consequential amendments."*
  - c) Item 2 is described as follows:
 

*"The Applicants apply for the obligation to provide a Viability review Submission for Viability Review Phase Three to be discharged entirely; deleting paragraphs 2.1.2 and 3.18.3 and reference to Viability Review Phase Three in paragraphs 3.3-3.10 and making all other appropriate consequential amendments."*
  - d) Item 3 is described as follows:
 

*"The Applicants apply for the obligation to provide a Viability Review Submission for Viability Review Phase Four to be discharged deleting paragraphs 2.1.3 and 3.18.4 and reference to Viability Review Phase Four in paragraphs 3.4-3.10 and making all other appropriate consequential amendments."*
6. Despite having received Application No. 1 some 8 weeks earlier (and having failed entirely to raise any concerns whatsoever as to validation during the determination period), by letter dated 30 June 2022, ABC have asserted that Application No.1 is invalid as a result of 4 alleged flaws:
  - a. Alleged failure to specify the modifications sought (i.e. alleged non-compliance with s.106A(3)(a) of the Act);
  - b. Alleged failure to specify the land to which the application relates and the applicant's interest in that land (i.e. alleged non-compliance with Regulation 3(1)(b) of the 1992 Regulations);
  - c. Alleged failure to serve notice on any person against whom the obligation is enforceable (i.e. alleged non-compliance with Regulation 4 of the 1992 Regulations);
  - d. Alleged failure to provide information which the Council considers necessary to enable it to determine the application (i.e. alleged non-compliance with Regulation 3(1)(e) of the 1992 Regulations).
7. We set out Hodson's position in respect of each alleged failure below, along with our proposed pragmatic approach in order to ensure that the consideration of the modifications sought are not subject to any further delay. Nevertheless, such position is expressly without prejudice to Hodson's primary position, which is that Application No. 1 was and remains valid, and Hodson's rights in this regard are duly reserved. Thus, addressing the specific complaints made.

*Issue 1: alleged failure to specify the modification*

8. We do not agree that this objection is of any substance whatsoever.
9. By s.106A(3), if a modification of an obligation is applied for then it must be "*specified*" in the application. Provided it is clear what the proposed modification is (and its effect) then it is not necessary for an applicant to provide precise wording for the proposed modification in each instance.
10. For the purposes of Application No. 1, the proposed modifications are set out clearly in column 3 of the Annex 1 table and then, for each item, the overall purpose is stated, along with specific reference to the relevant paragraphs that would require modification or deletion. On the basis of the proper interpretation of s.106A(3) (on the plain words used, read in their legislative context and having regard to their purpose), it is clear that Hodson has adequately specified the modifications that it wants.
11. Nor does the use of 'catch all' wording such as 'all necessary and consequential amendments' and 'all other appropriate consequential amendments' change the position in this regard. The use of such wording is obviously intended to highlight the fact that other minor amendments or adjustments to the drafting of other clauses may be required and ought to fall within ABC's consideration of Application No. 1. It is clearly not intended to suggest modifications of broader scope or for a different purpose. To seek to suggest otherwise is plainly unreasonable.
12. Please be advised that Hodson has taken the same, lawful, approach with reference to Application No. 2 and expects both applications to be validated without delay.

*Issue 2: alleged failure to specify the land and interest to which the application relates*

13. Hodson does not agree that there has been any failure in this regard, for at least the following reasons:
  - a. ABC's own 'standard' application form requests the full address of the site "*to which the obligation relates*" (box 4), as opposed to which the application relates. As such, ABC's complaint arises in large part from the drafting of the form that ABC has itself produced for applicants' use.
  - b. the full address is provided at least twice in the application materials.
  - c. the plans embedded within the table at Annex 1 shows the redline boundaries for the various viability reviews which show the extent of the land that relates to the Application. (In this regard, therefore, the complaint that "*the 'plan at Annexe A' which is said to show the land referred to was not annexed to the document either*" is again of no substance).
  - d. Regulation (2)(b) requires "*a map identifying the land to which the obligation relates*", as opposed to the land that the application relates, which is satisfied by Appendix 1 to the Viability Review that shows the consortium application boundary plan (i.e. the extent of the land that relates to the obligation).
14. Thus, and contrary to the view expressed in ABC's letter, the application documents specify both the land to which the obligation relates and the land to which the application relates.
15. Notwithstanding the above, and for the avoidance of any doubt, we hereby attach:
  - a. A plan "A" showing the land to which the obligations relate.
  - b. A plan "B" updated illustrated plan stating the applicant's interest in the land to which the obligations relate.

*Issue 3: alleged failure to notify those against whom the obligation is enforceable*

16. ABC's letter highlights an alleged inconsistency between the 7 parties on whom Hodson served notice and the longer list of parties to the proposed Deed of Variation.
17. Whilst we note that you do not identify the individual persons which you say were omitted from notification, we do not consider that funders listed as then prospective parties to the Deed of Variation (if that is what the complaint was) were appropriate parties for the purpose of enforcement of relevant enforceable planning obligations. If, alternatively, the point of complaint was that not all of the then registered freehold landowners were notified, we consider that the list was correct at the time of submission of Application No. 1 and the list has been revised again for the purpose of submission of Application No. 2.

*Issue 4: alleged failure to provide information which the Council considers necessary*

18. Regulation 3(1)(e) requires that an application for the modification or discharge "*shall be made on a form provided by the local planning authority, which shall require the following information – (a) such other information as the authority consider necessary to enable them to determine the application.*"
19. ABC's complaint is that there are numerous items of very specific, detailed information (listed i. – vii.) that it asserts "*is necessary to enable it to determine the application*".
20. ABC's complaint is based upon a flawed interpretation of the Regulations.
21. The requirements listed in Regulation 3(1) (including (e)) indicate the parameters for the application form itself, the contents of which are to be determined by the local planning authority. The relevant sentence has two clauses – first, that an application shall be made on a form provided by a local planning authority; second, "*which shall require the following information*"; i.e. it is the form that can specify (e.g. through a series of headers, questions and/or categories) the information that the authority considers is necessary.
22. On this view:
  - a. the information listed in Regulation 3(1)(a) – (e) is the information that is to be required by reference to the form on each occasion, rather than an inchoate range of information that might be specified differently by the authority on each occasion an application is made.
  - b. the Regulations provide for a degree of flexibility with regards to the production of the relevant forms and the information that those forms require.
  - c. but, having produced an application form which sets out a number of required headers and boxes listing the information that the authority requires for such an application, that authority is not then entitled to refuse to validate an application that provides *that* requested information simply because it considers, on the facts of a particular application, that it requires *other* information.
23. To interpret the Regulations as ABC does would give rise to a hopeless level of uncertainty for applicants. On your interpretation, an authority would effectively have carte blanche to refuse to validate virtually any application, even where an applicant had diligently provided all of the information required on the authority's form. The information required for a valid application would be completely uncertain - applicants would never be able to form a reasonable view as to whether they had submitted a valid application or not because they would always be at the whim of the authority as to whether it considered more information to be required.
24. To the extent that ABC may want to request further information in order to inform its determination of Application No. 1 (or No. 2), then it is entitled to do so and Hodson will consider any such request reasonably and with a view to providing information on a collaborative basis. However, ABC is not

entitled to refuse to validate either application simply because it wants information that goes beyond the information requested on its own application form.

25. Notwithstanding the above, Hodson has considered the requests for further information (under paragraph 4) and in answer can provide the following in order to inform ABC's consideration of both applications:

- (i) To date some 215 houses have been completed for sale, 117 by Hodson and some 98 by others.
- (ii) The build costs incurred by Hodson are (as noted) already shown in the viability reviews. As for the build costs incurred by others, this is commercially sensitive information which is not presently available to Hodson. In any event Hodson's own figures, where they are the lead builder, provide a sound and reliable base for the assessment of viability and deliverability.
- (iii) As to why the submitted 'Summary of Strategic Infrastructure Cost Estimate (Version 9.1 dated January 2016)' differs from the 'Summary Strategic Infrastructure Cost Estimate' provided by Hodson's previous request to vary various obligations in the s106 Agreement in 2021, the explanation lies in the different approach adopted for each. The 2021 assessment was a planning viability assessment, whereas the more recent submission with Application was strictly in accordance with the s106. Thus, in the 2021 assessment the s106 costs were removed, in order to establish just the remaining infrastructure costs. These infrastructure costs were then indexed to the date of the submission. The s106 costs were then calculated separately and carried forward into the appraisal. In contrast, for the 2022 submission, the infrastructure and s106 costs were simply indexed in accordance with the s106 agreement, for the purposes of the Review Phases 2, 3 and 4.
- (iv) The finance costs reflected within the appraisals submitted have been calculated in accordance with Schedule 44 of the s106 Agreement – see Construction Finance Cost definition, which reads "The cost to the developer of obtaining credit to finance the construction of the relevant Viability Review Phase being a sum equivalent to 3% of the sum of the Total Base Build Costs the Infrastructure Costs and the Construction Fees and the Benchmark Land Value." Within the submitted appraisals, the scheme finance costs are therefore included on a percentage of costs basis, and therefore, no cashflow assumptions were required.
- (v) Assuming that this query relates to the total Costs included for the purposes of the Construction Finance Cost calculations, as above, these costs have been applied in accordance with the Construction Finance Costs definition within the s106 Agreement – as provided above, and incorporate the Total Base Build Costs, the Infrastructure Costs, the Construction Fees and the Benchmark Land Value.
- (vi) This is commercially sensitive material that Hodson is not at liberty openly to disclose. ABC must proceed on the basis, that what is said in the application is true. Without prejudice to this position, before any deed of variation is completed in respect of the s106 agreement, Hodson will disclose on a confidential basis all relevant evidence.
- (vii) Hodson repeat the answer to request (vi) above.

Again, for completeness, it is not accepted that ABC is entitled to demand any of the above information as a condition of validating and determining Application 1, given in particular that all of it is more than required by ABC's own form of application, and this further information is provided without prejudice to that position.

#### *Summary*

26. For the reasons summarised above, Hodson does not accept that Application No. 1 is invalid. We therefore request that ABC considers the responses provided above and proceeds to validate Application No. 1 without further delay.

27. Should ABC again fail to validate Application No. 1 in response to this letter (or Application No. 2) in a timely fashion then Hodson will consider its options, including i) judicial review of ABC's decision not to accept the application(s); and/or ii) appeal to the Inspectorate under s. 106B, with a request that the issue of validity is considered by the Inspector. Should the Inspector agree with Hodson's position as to validity then he must overrule ABC's decision and proceed to determine the appeal.

In such circumstances, we will be seeking to recover Hodson's full costs on the grounds of ABC's unreasonable behaviour.

28. As to request for fees in the penultimate paragraph of ABC's letter, please can you assist with an explanation as to why it is said Hodson are liable to cover the said costs, including reference to any statutory or other provision relied upon. Plainly, Hodson would not wish this to be a bar to consideration of Application 1 and await your reply in this regard by return.
29. Nonetheless, without prejudice to the position above, and whilst reserving Hodson's rights as referred to at paragraph 28, to expedite the consideration of the requests made under Application No.1, these are now repeated in Application No.2 as referred to below.
30. Furthermore, and to the extent that we are providing some of the further information requested by ABC as part of Application No. 2, we are doing so expressly without prejudice to that same contention.

## **Application No. 2**

31. The submission of Application No. 2 (and the inclusion of the requests made pursuant to Application No. 1 within Application No. 2), is expressly without prejudice to Hodson's primary position as to the validity of Application No. 1.
32. Thus, this submission letter is accompanied by the following:
  - Formal Application No.2 and Annex A (and Appendices A1 and A2 thereto) explaining the need for the changes and detailing the variations (modification and/or discharge) sought and the reasons therefor; and also,
  - Viability Report dated April 2022 and appendices (prepared by Turner Morum) in support of Application No.1 (as previously submitted) at Annex B.
  - Explanatory Statement and appendices dated 18 October 2022 prepared by Quod with contributions from Vectos in respect of traffic obligations. Viability Report and appendices dated October 2022 which includes new viability (baseline and sensitivity) analyses.
33. In the light of the objections raised to Application No.1 (addressed above), and for the avoidance of doubt, we say at once that we consider the specifics of the modification and/or discharge sought by Application No. 2 are sufficiently addressed in the relevant application documentation (above). If any point is to be taken in this regard, this must be taken forthwith so as limit any delay in consideration of the application and enable Hodson to decide the action to be taken (paragraph 29 above refers).
34. As with Application No.1, this new Application No.2 is essential to enable permitted development at this strategically important site to be brought forward. It seeks a significant number of additional variations as specified in Annex A and for the reasons set out therein.
35. By way of a preliminary point, applicable to all requests, the Applicants seek disclosure in respect of the underlying costs and a reasoned justification for those costs; for example, in relation to Schedule 19 and the contributions to Off-Site Pedestrian and Cycle Links, a full breakdown of the costs of £530,000 should be produced with disclosure of substantiating documentation, as well as a more detailed explanation of the proposed spend.
36. Subject to the overarching preliminary point above, Annex A sets out at column 5 the reasons (verified by statement of truth) for each of the variations (discharge/modification) sought by the Applicants. Further substantiation and justification for the requests is provided by the new expert evidence from Quod and Vectos served in support under cover this letter.
37. The Explanatory Statement comprises expert planning and transport planning evidence. This Statement assesses in planning terms whether specific obligations continue to serve a useful purpose, or can serve their purpose equally well if modified as proposed. In many instances, for

example, deferring obligations to deliver infrastructure to align with demand and/or making their provision dependent upon meeting basic performance criteria or upon actual need.

38. The Viability Report (at Appendix 3 of the Explanatory Statement) provides a robust and transparent viability case that the current s106 Agreement obligations are excessive and need to be varied to ensure the viability and ultimately therefore the deliverability of the Development. As well as establishing that provided peak debt levels can be reduced in accordance with the variations requested, the scheme can be delivered by the Applicants and will ultimately prosper, offering the opportunity in later Review Phases to increase the Affordable Housing provision, whilst ensuring the delivery of all essential infrastructure.
39. Requests 100 to 102 (repeating requests 1 to 3 from Application No.1) seek to cap the amount of affordable housing in Phases 2, 3 and 4 of the approved development to 10% (split 60% Affordable Rented Units: 40% Shared Ownership Units). As before these are supported by the expert evidence of Turner Morum, showing (in the required format) that 10% is the maximum amount of affordable housing that can reasonably be delivered in each of these phases. In accordance with the provisions of the current agreement, this Viability Review must be considered on an objective basis on the evidence provided and this is a compliance matter rather than one of planning judgement.
40. As set out in the application (Relevant Background) discharge of these Viability Reviews now is essential to provide certainty and enable willing purchasers to proceed with land sales. Details of potential land sales are shown in the final column of the Appendix A2 to Annex A.
41. Further, from a planning perspective, the discharge of these obligations is entirely consistent with the following:
  1. *Policies contained in the Development Plan, including the Chilmington Green Area Action Plan (2013). Policy CG18 (Provision of Affordable Housing) of the Action Plan states that: 'Each main phase of the development is expected to meet these 'normal' requirements unless a robust and transparent viability case proving this is not possible is accepted by the council, in which case the policy may be applied with a degree of flexibility in line with the council's deferred contributions policy (see Policy CG22) to a minimum level where at least 10% affordable housing is delivered in any main phase and no less than 30% of affordable housing in any main phase is within the affordable rented sector.'*
  2. *Recent recognition by the Council that housing delivery on major sites in the Borough is challenging not least because of upfront infrastructure costs. Ashford's Housing Delivery Action Plan (June 2021) states as follows on Page 7 'Issues such as securing financial agreements, establishing robust cash flow models, land assembly and getting certainty over the delivery of needed infrastructure has all resulted in significant lead in times and subsequently delayed housing delivery from what was originally planned'.*
42. The proposed changes also have the benefit of assisting in providing essential certainty for the delivery of the remainder of Phase 1. This is important because whilst there remains uncertainty about the proportion of affordable housing it is not possible to grant the remaining Phase 1 reserved matter applications. Where the deadline for the latter is particularly pressing, with all reserved matters required for submission by 6 January 2023 (6 years from the date of the planning permission) as stipulated by Condition 4. Similarly, in relation to Review Phases 3 and 4 and the deadline under Condition 6.
43. The proposed changes will facilitate pending land sales and provide a firm basis for the scheme to move forward. Adding to the number of developers (to reflect the basis upon which the s.106 Agreement was negotiated) and enabling improved build out rates, to the benefit of all stakeholders. These factors also making any assessments of viability now, that much more relevant and reliable.
44. Taken together the variations proposed by this Application No.2 will ensure that a deliverable scheme comes forward and creates a positive and lasting legacy for Ashford consistent with the original Vision for Chilmington Green ('a truly sustainable new community and one which delivers a healthy balance of homes, jobs, local services ...', Paragraph 3.1.3 Area Action Plan).

45. We trust the enclosed is in order. As with earlier submissions, we would welcome the opportunity to explain the proposals at an initial meeting. Please do not hesitate to contact us if you have any questions or require further information.

Yours faithfully

*North Star Law Ltd*  
North Star Law Ltd

Enc