

Board/Committee:	REGULATORY BOARD
Date of meeting:	5 June 2024
Title:	DC04/018/23 - Royal Hospital Haslar, Haslar Road, Gosport Hampshire
Author:	Development Manager
Status:	FOR DECISION

Purpose

To seek authorisation to modify the legal agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) for the development at the former Royal Hospital Haslar.

The request has been submitted under S106A(1)(a) of the Town and Country Planning Act 1990 (as amended).

Recommendation

That the Board grant delegated authority to the Development Manager, in consultation with the Borough Solicitor, to remove the prohibition on dog ownership clause(s) of the Section 106 legal agreement for planning permission 12/00591/OUT and to allow for the keeping of dogs at the site subject to a Deed of Variation to secure alternative mitigation in accordance with the Gosport Bird Disturbance Mitigation Protocol.

1.0 Background

- 1.1** Planning permission was approved for the relevant development subject to a legal agreement under Section 106 of the Town and Country Planning Act ("Section 106 Agreement") and the first elements of the permitted development have been completed and occupied for some time.
- 1.2** A request has been made on behalf of the developer, Haslar Deveopments Ltd to modify the Section 106 Agreement to remove the existing prohibition on the keeping of dogs clause clause for planning permission 12/00591/OUT.
- 1.3** As the original application was considered and determined by the Regulatory Board, any variation of the Section 106 Agreement also needs to be considered to the Board.
- 1.4** The purpose of the restriction on dog ownership clause is to prevent residents from owning dogs in order to reduce the recreational impacts of the approved development upon the breeding and feeding habitats of identified priority species for the Portsmouth Harbour Special Protection Area and Ramsar sites.
- 1.5** The applicant indicates that the purpose of the variations is to remove the Prohibition on dog ownership and introduce an alternative requirement for contributions to be paid in accordance with the Gosport Bird Disturbance Mitigation Protocol prior to the occupation of units as yet unfinished and in respect of those units already occupied.

2.0 Relevant Planning History

- 2.1** 12/00591/OUT - Outline application with all matters reserved - mixed use development including demolition and part demolition of listed buildings and buildings within a conservation area and conversion of existing buildings and erection of new buildings to comprise 286no. residential units (class c3); a continuing care retirement community containing a 60no. bed care home, communal facilities and 244no. self-contained retirement units (class c2); offices and business units (class b1); a health centre (class d1); hotel (class c1); tearooms and restaurant/bar (class a3/a4); convenience store (class a1); church, public hall and heritage centre (class d1) together with alterations to existing vehicle and pedestrian access arrangements, open space provision and landscaping and parking – permitted 26 September 2014

3.0 The Proposal

- 3.1** The proposal is to remove the restriction on dog ownership clauses within the Section 106 Agreements associated with planning permission 12/00591/OUT and to insert a clause whereby contributions towards the Gosport Bird Disturbance Mitigation Protocol prior to the occupation of units as yet unfinished and in respect of those units already occupied. It is noted that a number of residents are keeping dogs at the site in contravention of the prohibition on the keeping of dogs.

4.0 Relevant Planning Policies

- 4.1** Gosport Borough Local Plan, 2011 – 2029:
LP42 Internationally and Nationally Important Habitats
LP43 Locally Designated Nature Conservation Sites
LP44 Protecting Species and Other Features of Nature Conservation Importance

National Planning Policy Framework (NPPF), December 2023.

5.0 Main Issues

- 5.1** The main issues to consider are, whether the existing planning obligation restricting the ownership of dogs still serves a useful planning purpose, and if so could that planning purpose be equally served by the proposed modification? If it would be equally served by the proposed modification then the Council should agree to the modification.
- 5.2** The potential impact of dogs on the adjacent SPA remains a material planning consideration and as such the current obligation continues to serve a planning purpose. The proposed alternative arrangements with regard to the mitigation of recreational impacts have been considered by Natural England who have confirmed that they are an appropriate alternative. As such the purposes of the S106 would be equally served by the proposed amendment.
- 5.3** The modification of the existing Section 106 Agreements seeks to remove the prohibition on the keeping of dogs at the site. Given that an alternative method for dealing with the recreational impact of the development upon breeding and feeding bird habitats has been identified, the removal of the dog prohibition

clause is considered reasonable.

6.0 Representations & Officer Comments

6.1 Five objections have been received from residents of the development raising the following issues:

- Some residents chose to live in a development without dogs;
- The site will become overrun with dogs and plastic waste bags;
- The influx of dogs will have a detrimental impact on the environment and the historic interests of the site; and,
- Many residents want a peaceful retirement undisturbed by dogs.

6.2 Whilst these concerns are acknowledged, it must be noted that they are not matters that are material to the consideration of this amendment to the S106 agreement. The issues raised have been shared with the developer as they can be managed and mitigated through the private management regime for the site.

7.0 Conclusion

7.1 As noted above, the main planning purpose for the prohibition of dog ownership within the Section 106 Agreement was to secure the mitigation of recreational impacts upon bird habitats. The planning purpose would, therefore, still be served by the proposed removal of the of the prohibition on keeping dogs clause, subject to agreeing appropriate wording to secure a financial contribution in accordance with the adopted Gosport Bird Disturbance Mitigation Protocol.

Financial Services comments:	<i>n/a</i>
Legal Services comments:	<i>Contained within the report</i>
Equality and Diversity:	<i>n/a</i>
Climate Change implications:	<i>n/a</i>
Crime and Disorder:	<i>n/a</i>
Service Improvement Plan implications:	<i>n/a</i>
Corporate Plan:	<i>n/a</i>
Risk Assessment:	<i>Low</i>
Background Papers:	<i>Supporting documents and planning applications, and previous reports to Regulatory Board for applications at the former Royal Hospital Haslar</i>
Appendices:	
Report Author/Lead Officer:	<i>Trevor Campbell-Smith Ext 5457</i>