

79 Burgh Heath Road  
Epsom Surrey  
KT17 4NF

12<sup>th</sup> February 2021

Dear Sirs

Objection to Planning Application 21/00120/S106A South Hatch Stables Burgh Heath Road Epsom

My first objection to this application to modify the existing section 106 agreement is that I do not believe that the application itself is valid. Under the Town and Country Planning Act 1990 s106A(3) and (4) an application for modification or discharge of a section 106 agreement can be made to the local planning authority after the expiry of the "relevant period" and the "relevant period" is defined as five years beginning with the date that the section 106 agreement is entered into. This agreement was only completed on the 15<sup>th</sup> May 2020 so I cannot see that this application is valid. There is no formal application form or fee being paid by the applicant because as far as I can see from looking at the 1990 Act referred to above such an application is not recognised in planning legislation.

If the developer wants to alter the phasing as set out in the existing S106 agreement then this can only be done EITHER by a contractual agreement with all parties to the existing S106 agreement to enter into a supplemental agreement but in this case it must be remembered that the Planning Committee when giving approval to this enabling development did so on the basis of the current phasing plan for the development so there is absolutely no reason why this Council or Surrey County Council (who are also a party to the existing agreement) should agree any changes OR the developers need to make a completely new application for the whole development changing the phasing on the proper form and with the proper fee with objectors being then able to use the full ambit of recognised planning reasons why such an application should be refused.

I have raised my concerns about the validity of this application (and a previous application which was withdrawn) in emails dated 5<sup>th</sup> November, 26<sup>th</sup> January and 1<sup>st</sup> February with both Mrs Healy the Head of Legal and Mr Evans the Head of Planning but at the time of emailing this to you on the 12<sup>th</sup> February I have not received a reply to the points raised despite sending a reminder on the 5<sup>th</sup> February and telephoning. Ms Healy did confirm that I would be receiving a response from Mr Evans "shortly" but this was on the 1<sup>st</sup> February. Can I therefore ask the planning committee to raise the question of the validity of this application themselves.

Dealing with the contents of the application itself this new application changes the wording of the sections dealing with the phasing in quite a confused way but the main changes appear to be:-

Construction of phase 6 (the 2<sup>nd</sup> residential block) can start before phase 5 (construction of the main racing training establishment apart from the smaller stable block built under phase 2) is practically completed. The developers only have to reach first floor level of the Main Yard and there is no confirmation as to what other works have to be done so in reality it can just be a "shell"  
AND

Construction of phase 8 (the third residential block) can start before phase 7 (the stable staff accommodation) is practically completed. Again only the first floor level of the staff accommodation has to be reached and there is no confirmation as to what other works have to be done so in reality it can just be a "shell".

The main consequences of these proposed changes are as follows:

1. Speeding up the construction could lead to a more intense and noisy construction period, traffic disruption and adversely affect the eco-system in one fair swoop.
2. The "affordable housing" part of this development namely the stable staff accommodation has fallen even further behind.
3. With the economy as it is, as a result of the coronavirus, it would be no great surprise if some developers have issues finishing big projects which may have been sustainable in "normal" times. These modifications would allow more development work to be done at once so if this development is halted for whatever reason you could be left with a large part of Green Belt land destroyed without the racing training establishment having been completed which was after all the main purpose of allowing the enabling development on Green Belt land in the first place. It would certainly be a blight on the landscape with the eyesore of a lot of unfinished buildings and the potential for another planning application being submitted to the Council to discard the racing elements of the site and instead put in for more housing which after all is more profitable to "get rid" of the eyesore. After all similar practices have been done in the past on other land which had been Green Belt.

Putting to one side whether the application itself is valid I note that the applicant quotes in this application S106a(6)(C) of the 1990 Act (having ignored the earlier sections referred to above) which basically provides that any modifications should serve their purpose equally well as the existing obligations. Therefore the purpose of the current obligation has to be considered and this is to ensure that the new Racing Training Establishment (RTE) gets built and totally finished before work on the later phases of the residential development which will take up more Green Belt land commences. After all permission for this sizeable residential development on this Green Belt site would not have been approved without the new RTE so it was seen to be vital that this was given priority. This was an important consideration when the planning committee approved the application and I can recall a planning officer re-assuring the planning committee at the time that this would be covered in the section 106 agreement. It was not an issue disputed by the applicant at the time. After all the existing S106 agreement does allow the first part of the residential development to be built and occupied after building the smaller stable block to assist with funding of the further development

This condition clearly serves a useful planning purpose so the question that has to be asked is would the obligation serve that purpose equally well if it had effect subject to the modifications that are now proposed. I hope that for the reasons stated above you will agree that the new modifications would not serve the purpose equally well and that this application should be rejected by the Council

Can you please arrange for this letter to be uploaded on your website as an objection to this planning application as soon as possible

Lesley Pond (Mrs)

To: Planning Department  
Epsom and Ewell Borough Council  
The Parade  
Epsom KT18 5BY

