

PETER WONNACOTT - Planning

Planning and Development Advisor

Tel: (01288) 352047 Mobile: 07721 488497 Fax: (01288) 356658 E-mail: pwplanning@btconnect.com

25-11-08

Head of Development Control
Eastleigh Borough Council
Leigh Road
Eastleigh
Hants S050 9YN

V/08/64296

Dear Sir

Ref: Hatts Copse Farm, Brook Lane, Botley, Hants - Proposed Variation of S106 Obligation.

Please find enclosed application on behalf of Mr Gerry Skilton for the variation of the S106 Agreement dated 11 January 1994 relating to planning permission 264442/11, dated 19 January 1994 for Hatts Copse Farm, Brook Lane, Botley, Hants S030 2ER.

The variation requested is to enable the buildings identified in the agreement to be used solely as accommodation ancillary to the main dwelling house and, as such, to be occupied only by family or friends of the owner of the dwelling house.

This application has arisen as a result of a letter received by the applicant from the enforcement section of the Authority dated 18 September - reference E/08/12701.

The application is comprised of three copies of the application [no forms were available from the Authority], three copies of a statement explaining the reasons for the application for the variation, three copies of a 1:2500 site location plan, a cheque for £170 to cover the application fee and this letter.

Please contact me should you have any queries with regard to this application or require any further information.

Yours faithfully



Rodds Bridge Farm - Bude - Cornwall - EX23 0LS

Operating through Drawfun Ltd Reg. No. 2888576 Registered Office: Rodds Bridge Farm, Bude, Cornwall EX23 0LS. Director: Peter Wonnacott
V.A.T. Reg. Number 750 2134 72

APPLICATION FOR MODIFICATION OR DISCHARGE OF PLANNING OBLIGATIONS
 Please use this form if you wish to modify or discharge a Section 106 Agreement
TOWN AND COUNTRY PLANNING (MODIFICATION AND DISCHARGE OF PLANNING
OBLIGATIONS) REGULATIONS 1992.

Please submit **THREE** copies of all forms. Plans and supporting information

1 Name and address of applicant

MR GERRY SKILTON
 MATTS CUPSG FARM
 BRUTE LANE
 BUTLEY

Tel/e-mail/fax No.

MANIT 5030 2ER

Applicants interest in land

OWNER

2 Name and address of agent (if any)

PETER WONNACOTT PLANNING
 ROOM BRING FARM
 BRUTE

CORN WALL EX230LS

Tel/e-mail/fax No. 01288 352047

3 Address or location of the application site:

MATTS CUPSG FARM
 BRUTE LANE
 BUTLEY

MANIT 5030 2ER

4 The number of the planning permission that the agreement relates to:

26442/11

DATED 19 JAN 1994

V/08/64296

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5 Details of the planning obligation to be modified:

SEE ATTACHED STATEMENT.
OBLIGATION DATED 11 JANUARY 1994.

6 Any other information (please give any information that will assist us in determination)

SEE ATTACHED STATEMENT

I hereby apply for the modification or discharge of the above planning obligation. I enclose 1 copy of a site plan at a scale of 1:2500. Please note that a fee will be payable to the Legal Service Unit if your application is agreed.

Signature
Date



25/11/08

~~Applicant~~/Agent

PETER WONNACOTT - Planning
Planning & Development Advisor
Rodge Bridge Farm - Bude - Cornwall EX23 6LS
Tel 01288 352047 Fax 01288 356633
Email: peter.wonnacott@btconnect.com

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25-11-08

Statement re proposed variation of S 106 Agreement dated 11th January 1994 – Hatts Copse Farm, Brook Lane, Botley SO30 2ER

Introduction

The proposal is the variation of the S 106 Agreement dated 11 January 1994 relating to Hatts Copse Farm, Brook Lane, Botley, SO30 2 ER to enable the outbuildings identified in the agreement to be used solely as accommodation ancillary to the main dwelling house and, as such, to be occupied only by family or friends of the owner of the dwelling house. The present requirement in the agreement to retain the property as a whole is not affected by the variation request.

The S 106 agreement relates to a decision granted under 264442/11 dated 19 January 1994 for the 'renewal of permission 26442/9 dated 28 February 92 for the conversion of detached garage and outhouse to separate dwellings for occupation by elderly parents [retention of development already carried out]'.

Decision 26442/11 was subject to one condition requiring 'the development hereby permitted must be begun within a period of five years beginning with the date on which this permission is granted'. This development was commenced.

The S 106 Agreement controlled occupation of the two buildings identified above to named persons and in particular required occupation to cease and the buildings to revert to their previous uses once the occupation by the named persons had ceased.

In addition the S106 Agreement required the whole property to remain within one ownership.

The history of the site since the agreement was signed is that in 1997 the site was sold to a Mr E Conti who lived at the property between 1997 and 2006, when he sold the property and returned to Italy. It is not clear as to who occupied the buildings the subject of the S106 agreement during that time but it is clear that they were not occupied by the persons named in the S106 Agreement.

In 2000 Mr Conti had made an application to the Authority to vary the S106 Agreement to allow occupation of the outbuildings by members of his family.

This application was recommended for approval on the basis that the accommodation was sufficient to meet the needs of the occupiers without need for extensions etc and that the justification was reasonable.

The recommendation required that the variation placed the same restrictions on occupation and sale of the property as the original agreement.

As far as is known this variation application was never determined.

In 2006 the property was purchased by the applicant who has used the outbuildings for occasional occupation by family and friends.

The variation requested by the applicant would make no difference to the amenity of neighbours or create any further visual impact in the countryside than the occupation of the premises as currently regulated by the S106 Agreement.

Occupation by named members of a family is little different in amenity or visual amenity terms to occupation by unnamed members of a family.

It would be inappropriate to name the members of the family / friends of the present applicant who might occupy the buildings – partly because their occupancy would in the main only be transitory [i.e. whilst on holiday, visiting or temporary – whilst helping out] and partly because of the numbers of different members of the family who may occupy the buildings over a period of time.

The outbuildings are of a permanent nature – being of brick construction with slate/tiled roofs – and have been fitted out internally as dwellings. They have been so used since 1992. It is considered unreasonable to require their use – some 16 years later - to revert to their previous uses, particularly in relation to the requirement for one to revert to agricultural outbuilding use – when it would appear to have never had any connection with agriculture whatsoever.

Government Circular advice [11/95] is that permanent buildings should generally not be regarded as being suitable for temporary occupation by named persons and that buildings [dwelling houses] should generally not be required to remain unoccupied.

In policy terms the greater concern regarding the use of the buildings would appear to be use as separate dwelling houses – the retention of the requirement to retain the whole as one estate and a separate requirement requiring the buildings to be used solely as ancillary accommodation to the main dwelling house and to be occupied only by family or friends of the owner of the dwelling house would effectively prevent this separate use from occurring.

PETER WONNACOTT - Planning

Planning & Development Advisor

Rodda Bridge Farm - Bude - Cornwall EX23 0LS

Tel 01288 352047 Fax 01288 156650

Email: pwplanning@btopenworld.com

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