

Meeting:	Planning Committee
Date:	9 th September 2009
Subject:	69 Elm Park, Stanmore
Responsible Officer:	Stephen Kelly – Divisional Director Planning Services
Portfolio Holder:	Councillor Marilyn Ashton – Portfolio Holder for Planning, Development and Enterprise
Exempt:	No
Enclosures:	None

Section 1 – Summary and Recommendations

The Applicant, Dr Ralph Abrahams has applied under Council reference P/0281/09 to vary the condition imposed on permission P/1386/08/DFU to permit,

“the number of general practitioners, qualified medical advisors and nursing staff seeing and consulting with patients within the surgery at any one time to be limited to three”.

The Committee resolved to grant permission for the variation and also to vary the existing section 106 Agreement. Both the condition and the s106 Agreement seek to control the number of medical practitioners consulting with patients at any one time, which results in unnecessary duplication.

Recommendation:

The Committee is requested to:

1. Remove condition 1 on planning permission P/1386/08/DFU /

LBH/36494.

2. Authorise a variation of the section 106 Agreement signed on 27 August 2008, increasing the number of medical practitioners from two to three.

Reason: In accordance with Circular 05/05, the imposition of the condition along with the requirement to enter into a s106 Agreement creates unnecessary duplication. The section 106 Agreement offers the LPA wider control over the use of the premises than the currently drafted condition.

Section 2 – Report

Circumstances

On the 24th June 2009, the Planning Committee resolved to grant planning permission for the variation of condition 7 of planning permission LBH/36494 to allow the number of general practitioners, qualified medical advisors and nursing staff seeing and consulting with patients within the surgery at any one time to be limited to three. The Committee (by an Urgent Non-Executive Decision dated 30 July 2009) also resolved to vary an obligation within the existing section 106 Agreement dated 27 August 2008, which would increase the number of medical practitioners from two to three.

However, the condition and the s106 Agreement will in effect produce a similar requirement, the restriction of the number of medical practitioners consulting with patients to three.

On the 15th July 2008 the Committee resolved to grant permission (ref P/1386/08) for the variation of condition 7 of planning permission LBH/36494 to allow two doctors to practice on the premises. In addition a section 106 Agreement was entered into on similar terms. However, having looked at the issue in detail in relation to this application, there is no further need for both the condition and the s 106 Agreement.

Paragraph B51 of Circular 05/05: Planning Obligations, states that ‘an obligation should not be entered into which requires compliance with conditions imposed on a planning permission. Such obligations entail unnecessary duplication and could frustrate a developer’s right of appeal’. As the obligation within the legal agreement has a wider scope of control and seeks to control the number of general practitioners, qualified medical advisors and nursing staff consulting with patients at any one time, this would better control the level of use at the property, as opposed to controlling the number of doctors employed at the property through the use of a condition. It is therefore considered that the obligation better controls the level of use at the property and that the condition on the planning permission should be removed to avoid unnecessary duplication.

Action Sought

The committee have resolved to grant planning permission for the variation of condition and have therefore confirmed that the use of the premises for three doctors to practice concurrently is acceptable. For the reasons given above, the Committee are requested to agree to the removal of the condition on the planning permission, as this requirement would be better controlled under the section 106 Agreement.

Section 3 – Further Implications

Legal implications

The removal of the condition will not result in any additional risk to the Council. Control over the use of the property and the number of medical practitioners will be maintained through the section 106 Agreement.

Section 4 - Financial Implications

The applicant will bear the costs of varying the s.106 agreement. All costs relating to the variation will be borne by the applicant and the Council will not incur any costs.

Section 5 - Statutory Officer Clearance

Name: Sheela Thakrar	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 24 August 2009		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 18 August 2009		

Section 6 - Contact Details and Background Papers

Contact: Nicholas Ray, Planner – East Minor Team, telephone:
02087366187

Background Papers:

- Section 106 Agreement dated 27 August 2008
- Initial draft decision notice (ref P/0281/09)

If appropriate, does the report include the following considerations?

1.	Consultation	NO
2.	Corporate Priorities	NO