

Application Number: 13/11408 Modification or Discharge of Planning Obligation

Site: MERRYFIELD PARK, DERRITT LANE, SOPLEY BH23 8AU

Development: **Proposed amendments to the Section 106 Agreement regarding the type of Affordable Housing and the removal of Code Level Four requirements.**

Approved Scheme: The erection of up to 80 dwellings with the retention of up to 11 existing buildings with a total floor area of no more than 1,309 sqm for B1 uses and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses (Outline application with all matters reserved)

Applicant: Merryfield Park

1 REASON FOR COMMITTEE CONSIDERATION

Discretion of Executive Head of Economy, Housing and Planning and Contrary to Local Plan Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Green Belt
 Countryside outside the New Forest
 River Valley
 Site Special Policies Apply
 Archaeological Site
 Flood Zone 1, adjacent to Flood zone 2 and 3
 HSE Pipeline Cons Zones
 Adjacent to New Forest National Park

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
3. Housing
4. Economy
7. The countryside
8. Biodiversity and landscape

Policies

Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS4: Energy and resource use
CS7: Open spaces, sport and recreation
CS10: The spatial strategy
CS12: Possible additional housing development to meet a local housing need
CS13: Housing types, sizes and tenure
CS14: Affordable housing provision
CS15: Affordable housing contribution requirements from developments
CS17: Employment and economic development
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Plan Document

DM3: Mitigation of impacts on European nature conservation sites
DM2: Nature conservation, biodiversity and geodiversity
DM4: Contaminated land
DM21: Residential development in the countryside
DM23: Employment development in the countryside

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

5 RELEVANT PLANNING HISTORY

5.1 The erection of up to 80 dwellings with the retention of up to 11 existing buildings with a total floor area of no more than 1,309 square metres for B1 use and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses - Outline application all matters reserved (11408) Granted with conditions on the 15th December 2014.

5.2 Development of 80 houses, public open space, SANGS, footpaths, allotments, access roads, landscaping, boundary treatments, demolition of existing buildings, street lighting - Details of appearance, landscaping, layout, scale and access to outline planning permission granted under 11408 (10914) GRanted with conditions on the 28th October 2015.

6 PARISH / TOWN COUNCIL COMMENTS

Brangore Parish Council: raise no objections to the provision of starter homes and affordable property to rent as well as the shared ownership dwelling.

Sopley Parish Council: No comments received to date

7 COUNCILLOR COMMENTS

None

8 REPRESENTATIONS

None

9 ASSESSMENT

9.1 Introduction

9.1.1 Firstly, it is important to note that this is an application only to modify a Section 106 Agreement, and not a planning application.

9.1.2 The applicants, who are also the Freehold owner of the site, Bellway Homes Ltd, have applied to modify the (completed) Section 106 Agreement completed in respect of outline planning approval 13/11408 regarding the type of affordable housing provision and Code Level 4 requirements.

9.1.3 Outline planning permission was granted on the 15th December 2014, under reference 13/11408, for the development of the site for up to 80 dwellings with the retention of up to 11 existing buildings and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses. The application was made in outline, with all matters reserved.

9.1.4 An integral part of the outline planning permission was an Agreement under Section 106 of the Town and County Planning Act 1990, which was completed on the 15th December 2014. The Agreement secured a number of obligations and financial contributions which include affordable housing, on site Public Open Space, SANGS, Allotments, the provision of commercial floor space to be provided on the site through the retention of existing buildings and a footpath link to the village.

9.1.5 A subsequent Reserved Matters Application was granted in 2015, under planning reference 15/ 10914. Construction works are currently under way on the site to implement the planning permission and although a number of the approved houses have been constructed, none are occupied.

9.1.6 In relation to the affordable housing, the Section 106 Agreement required 50% of the total number of dwellings to be constructed on the land to be provided for affordable housing, of which 60% of the affordable housing dwellings should be Social Rented Housing and 40% Intermediate Housing, which could either be Intermediate Rented Housing and/or Shared Ownership units.

9.2 The proposal

9.2.1 The applicants propose that certain provisions of the Planning Agreement are varied solely in relation to the type of affordable housing on the site and the removal of any reference to Code Level 4 requirements. The effect of the proposed variations will allow for the introduction of Starter Homes on the site as part of the mix of Affordable Housing. Technical adjustments to the provisions dealing with the ability of a mortgagee of a Registered Provider to deal with land forming part of their security have also been incorporated. It is also proposed to remove any references to Code 4 for Sustainable Homes.

9.2.2 Other than the affordable housing provision and the removal of any reference to Code 4 for sustainable homes, all other obligations and financial contributions within the S106 agreement regarding the provision and future maintenance of on-site open space and a SANGS, a footpath linking the site to the village and the provision of allotments will remain unchanged.

9.2.3 The proposed variations to the Agreement would provide for the Affordable Housing as follows:

50% of the Dwellings provided on Site (40 Dwellings) would comprise Affordable Housing Dwellings of a type as defined below.

- a) 20 of the Dwellings would be Starter Homes
- b) 14 of the Dwellings would be Shared Ownership Dwellings and
- c) 6 of the Dwellings would be Affordable Rented Dwellings

The Affordable Rent Dwellings (c) are to be made available for rent to a Registered Provider first approved by the Council at a rent set out in accordance with the National Rent Regulatory Framework. The Shared Ownership/Affordable Housing (b) will be either Affordable Rented Housing or Shared Ownership Housing where a party can purchase part or subsequently all of the equity in the Property.

9.3 Assessment

9.3.1 Firstly, in relation to the removal of any references to Level 4 of the Code for Sustainable Homes, this would be acceptable. While this is technically contrary to adopted planning policy CS4 this has now been superseded by new government policy in which Code Levels are dealt with by Building Regulations.

9.3.2 In relation to the modification to Affordable Housing provision, in determining outline application 13/11408, the proposed development was required to make an Affordable Housing contribution of 50% of the total number of units in accordance with Core Strategy CS15. Although Policy CS15 seeks 70% of the affordable dwellings to be social rented and 30% intermediate, it was determined that the tenure split proposed of 60% affordable rented and 40% shared ownership would be acceptable and was supported by the Councils Strategic Housing Officer. Of the 40 dwellings, 24 units (60%) would be for social rented and 16 units (40%) for intermediate housing.

9.3.3 The main reason for the change of approach in this revised Section 106 agreement is to accommodate the Government's new initiative to promote the provision of Starter Homes. The Government see Starter Homes as a means to provide low cost homes for qualifying first time buyers and the Government's main objective is for at least 20% of dwellings on major sites to be built as Starter Homes. Starter Homes are a new form of Affordable Housing, and will be offered for sale to qualifying first time buyers between the ages of 23 and 40 at no more than 80% of open market value, capped at £250,000.

9.3.4 The Housing and Planning Act 2016 was enacted on 12 May 2016, which is now law. The secondary legislation (meaning Regulations) are needed to bring into force the provisions of the Act. The first set of Regulations came out on 25 May 2016 (The Housing and Planning Act 2016 (Commencement No.1) Regulations 2016) and the second set of Regulations came out on 11 July 2016 (The Housing and Planning Act 2016 (Commencement No.2, Transitional Provisions and Savings) Regulations 2016).

- 9.3.5 The Part of the Act that defines Starter Homes as affordable housing (section 159) has not yet come into force, and accordingly, the Government's current definition of affordable housing does not include Starter Homes. It is the intention that Starter Homes will fall within the definition of Affordable Housing and therefore Starter Homes will count 'as' or 'towards' the overall affordable housing provision. Moreover, under the terms of section 4 of the Act, there is a general duty for Councils to promote the supply of Starter Homes and that will come into force on 1 October 2016 as a result of the second set of commencement regulations. Accordingly, the Government's stance on Starter Homes should be given significant weight.
- 9.3.6 For this reason it is considered that New Forest District Council should support the provision of a substantial proportion of Starter Homes on this site. Whilst technically this does not accord with our adopted Core Strategy policy CS15, which does not include Starter Homes, it will become a duty of all Councils to promote this form of development from 1st October 2016. This is therefore an ideal opportunity for this Council to welcome the new Government initiative even though it is not technically in force for another 6 weeks. A proportion of shared equity and rented homes are still retained under this new approach.
- 9.3.7 The new legal agreement makes provision for 20 of the houses to be marketed as Starter Homes to qualifying first time buyers as described in paragraph 9.3.3 above. If a Starter Home cannot be sold as a Starter Home to a qualifying first time buyer within 9 months of being completed, it will be sold as a shared ownership property to a Registered Provider and so will remain within the definition of affordable housing. Starter Homes must be occupied by the first time buyer as their sole home and cannot be rented out. If the first time buyer sells the Starter Home within 5 years then some or all of the discount must be repaid. The developer will also provide 14 shared ownership units and 6 affordable rented units in the scheme.
- 9.3.8 In balancing out the issues, and in anticipation of the change to the definition of affordable housing, reflecting the Governments general direction of travel on Starter Homes, it is recommended that this Committee agree to officers negotiating a Deed of Variation to the s106 agreement to planning permission 13/11408.

9.4 Conclusion

- 9.4.1 In summary, whilst the proposal to modify the s106 Agreement is not strictly in accordance with current local plan policy, Officers consider that the proposal to provide Starter Homes as part of the Affordable Housing mix would accord with the Governments objectives to provide Starter Homes, and in anticipation of the definition of Affordable Housing being amended to include Starter Homes.

RECOMMENDATION

10

- 10.1 That the Section 106 agreement be varied in accordance with the details set out in the preceding paragraphs.

Further Information:

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DISTRICT COUNCIL

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**Planning Development
Control Committee
August 2016**

Item No: 3b
Merryfield Park
Derritt Lane
Sopley
13/11408
SZ1797

Scale 1:3000

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the internet, it will not be to
scale.

