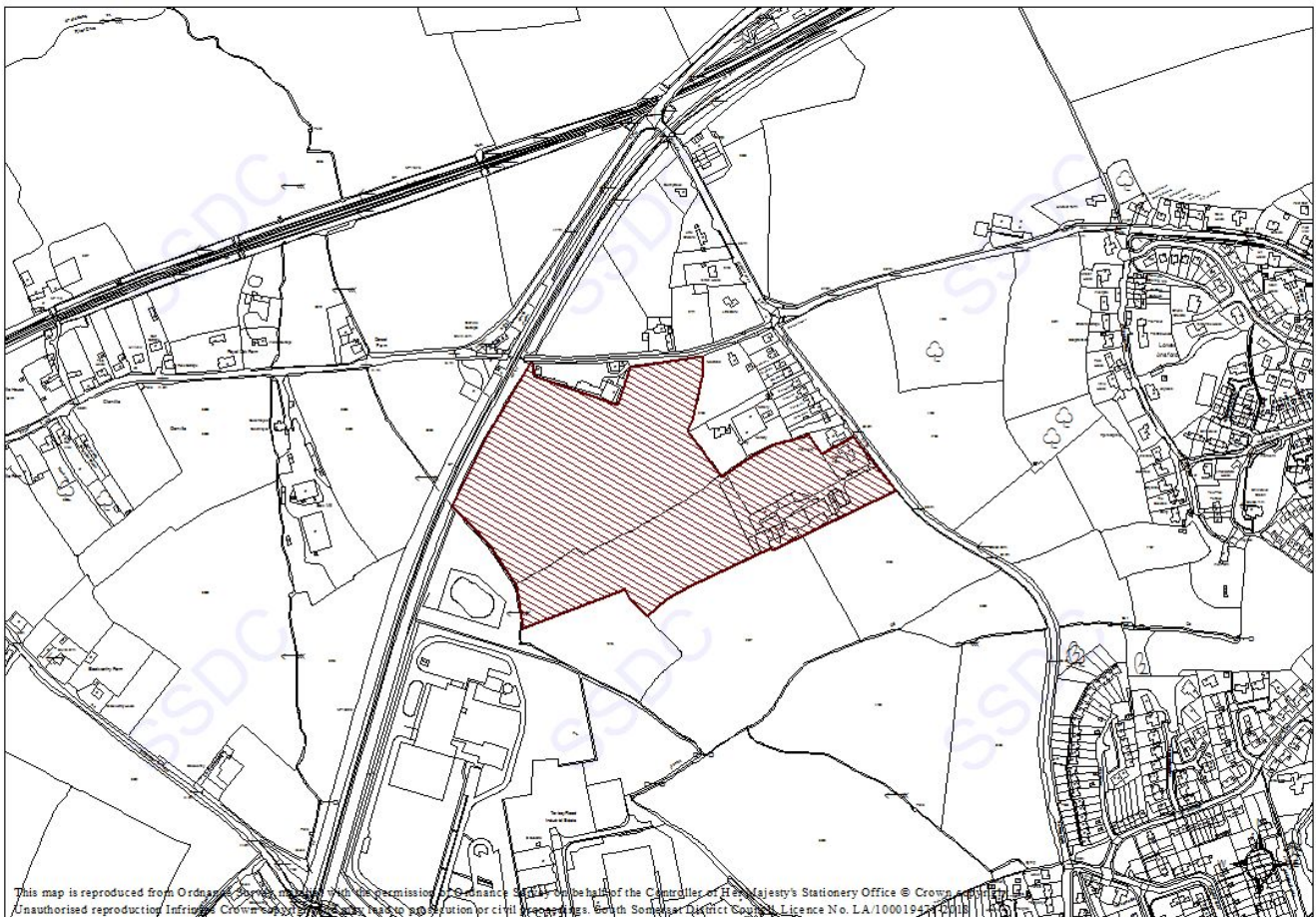


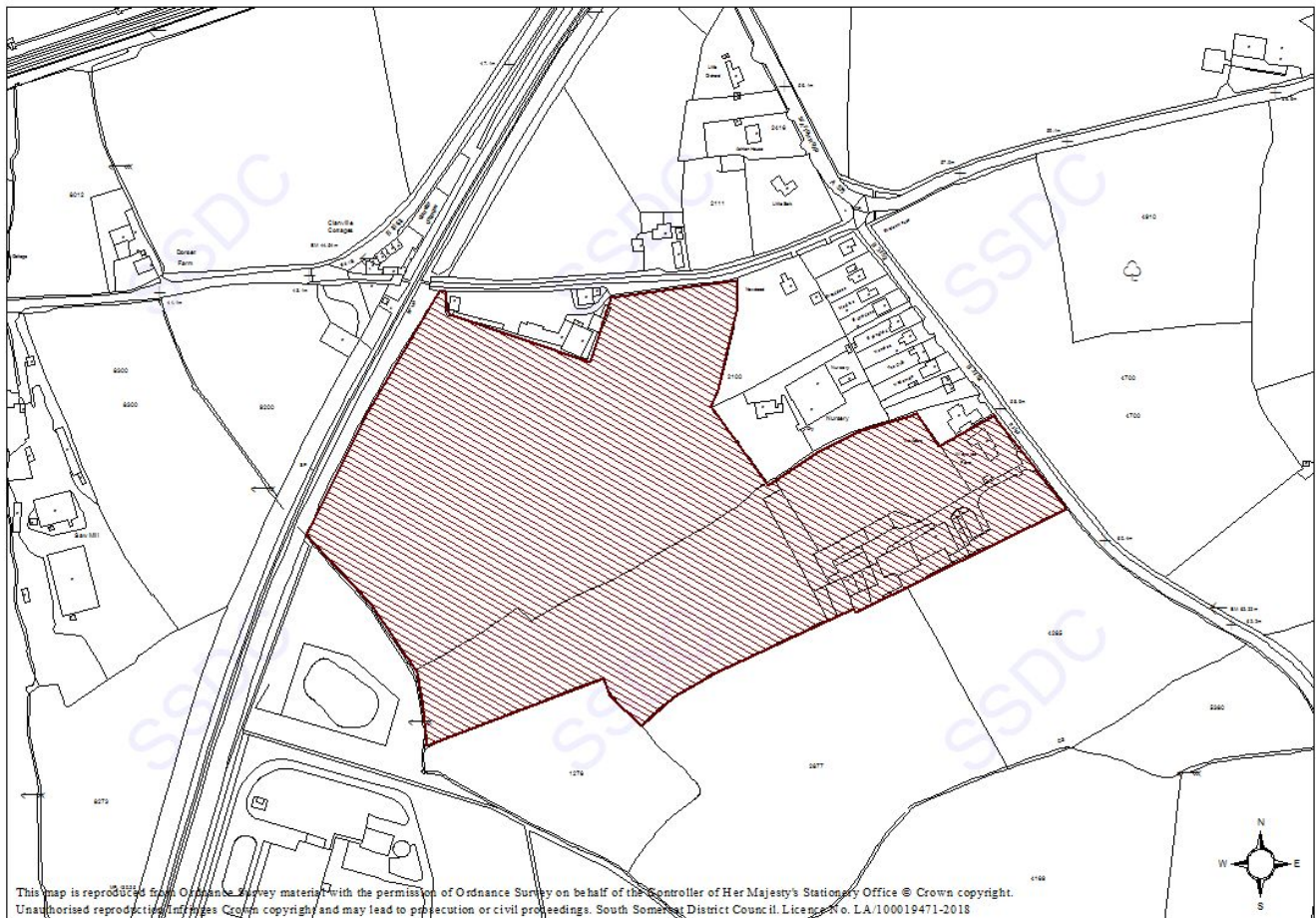
Officer Report On Planning Application: 18/03121/DPO

Proposal :	Application to modify a S106 agreement between South Somerset District Council, Somerset County Council, Waddeton Park Ltd and Michael John Berry and Joy Berry dated 13th October 2016 in relation to affordable housing obligations.
Site Address:	Land Rear Of Wayside Farm Station Road
Parish:	Ansford
CARY Ward (SSDC Member)	Cllr Nick Weeks Cllr Henry Hobhouse
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
Target date :	23rd November 2018
Applicant :	Stonewater Ltd
Agent: (no agent if blank)	Clarke Willmott LLP Blackbrook Gate Blackbrook Park Avenue Taunton TA1 2PG
Application Type :	Non PS1 and PS2 return applications

The application is before the committee, in line with the agreed practice, as it seeks to vary the amount or nature of a financial contribution that is secured through a section 106 agreement.

SITE DESCRIPTION AND PROPOSAL





This application is seeking to vary a Section 106 agreement dated 13th October 2016 between South Somerset District Council, Somerset County Council, Waddeton Park Limited, and Michael John Berry and Joy Berry, which is an agreement relating to the following planning permission:

14/05623/OUT - Outline planning application for the demolition of all existing structures (including the farmhouse and agricultural buildings) and development to provide up to 125 residential units (including 35% affordable housing), associated landscaping, access and infrastructure - Application allowed on appeal 12/01/2017

The legal agreement secures 35% of the units as affordable housing, secures financial contributions towards sports, arts and leisure, secures the provision of a LEAP, secures the provision and maintenance of onsite public open space, secures financial contributions to education, and secures the provision and implementation of a travel plan.

The proposal originally sought to vary the agreement in relation to the provision of the LEAP and in relation to the affordable housing. The proposal has since been amended to relate solely to the affordable housing provision. The proposed variations are as follows:

- 1) To provide flexibility to the agreement of the "Affordable Housing Mix" and the trigger for the completion of the Dwellings in accordance with the Housing Mix by allowing this to be agreed in writing with the Council without the need for a further Deed of Variation
- 2) To change the requirements for the Affordable Housing Mix for one and two bed dwellings so as to remove the specified split between flats and houses for the 1 and 2 bed units and adjust the floorspace accordingly.
- 3) To increase the rent to be charged for Affordable Rented from 79% to 80% (as per the NPPF definition).
- 4) To vary the definition of The Scheme Standard to remove the reference to Code Level 3.

5) To update the Mortgagee in Possession wording to reflect the Council's current standard wording.

HISTORY

18/02986/REM - Reserved Matters application for the erection of 125 dwellings, open space, highways, car parking, landscaping and ancillary development - Pending consideration

18/02141/DPO - Application to part discharge a section 52 agreement dated 30/10/1987 preventing non-fragmentation of land between South Somerset District Council and Mr and Mrs M J Berry - Application permitted 14/08/2018

15/04066/OUT - Outline planning application for the demolition of all existing structures (including the farmhouse and agricultural buildings) and development to provide up to 125 residential units (including 35% affordable housing), associated landscaping, access and infrastructure (revised application) - Application refused 16/10/2015

15/00043/EIASS - Screening opinion for outline planning application for the demolition of all existing structures (including the farmhouse and agricultural buildings) and development to provide up to 125 residential units (including 35% affordable housing), associated landscaping, access and infrastructure - EIA not required 13/02/2015

14/05623/OUT - Outline planning application for the demolition of all existing structures (including the farmhouse and agricultural buildings) and development to provide up to 125 residential units (including 35% affordable housing), associated landscaping, access and infrastructure - Application allowed on appeal 12/01/2017

14/02906/OUT - Residential development of up to 75 dwellings, with associated means of access with all other matters reserved (appearance, landscaping, layout and scale) - Non determined (appeal against non-determination withdrawn)

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028)

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy EQ2 - General Development

Policy HG3 - Provision of Affordable Housing

CONSULTATIONS

Ansford Parish Council -

"Ansford Parish Council is totally opposed to any reduction in the affordability of the units proposed and the long term allocation of the agreed proportion of affordable units on the development and therefore we are opposing this request to modify the existing agreement between SSDC and Mrs and Mrs Berry."

Castle Cary Town Council -

"This application was discussed at a Town Council Meeting on Monday 19th November 2018 and Castle Cary Town Council wish to raise concerns about the proposal to amend this S106 agreement."

The amendments propose to change far more than the affordable housing contribution and need to be

considered very closely.

The needs for community and leisure facilities in Castle Cary and Ansford have also changed considerably in the two years since the document was signed and, if changes are being made by the Owner, the Town and Parish Councils of Castle Cary and Ansford should be allowed to consider and consult on changes to the payments due under the S106 agreement."

SSDC Strategic Housing - No objections

REPRESENTATIONS

One letter of objection received from the occupier of a neighbouring property. They raise objections in the following areas:

- Loss of view
- Loss of tranquillity
- Houses not required
- Loss of property value
- Construction disturbance
- Inadequate screening from development
- Assurance that developers will not interfere with mature trees in objector's garden
- Incorrect name on one of the forms
- Railway station car park inadequate for increased commuters.

CONSIDERATIONS

The proposed changes to the section 106 agreement are all minor in nature. The impact of each is discussed in turn below.

- 1) To provide flexibility to the agreement of the "Affordable Housing Mix" and the trigger for the completion of the Dwellings in accordance with the Housing Mix by allowing this to be agreed in writing with the Council without the need for a further Deed of Variation.

This is a technical matter and would allow similar variations to be made in the future without the need for a formal deed of variation and the consequent need to involve solicitors. Any variation to the mix would still need to be agreed in writing with the LPA, and any such proposal would still be discussed and agreed with ward members prior to any agreement being offered. The proposal just allows for more flexibility in the system.

- 2) To change the requirements for the Affordable Housing Mix for one and two bed dwellings so as to remove the specified split between flats and houses for the 1 and 2 bed units and adjust the floorspace accordingly.

The S.106 is currently very specific on how many of the proposed 1 and 2 bed units will be flats and how many will be houses. The proposed variation would allow the developer to decide how many should be flats and how many should be houses, depending on what is most required at the time of development. The actual mix of units on site will be agreed through the subsequent reserved matters application.

- 3) To increase the rent to be charged for Affordable Rented from 79% to 80% (as per the NPPF definition).

The NPPF contains a definition of affordable housing for rent, which is as follows:

"Affordable housing for rent: meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)."

The proposal variation would bring the definition contained within the legal agreement into line with this definition.

- 4) To vary the definition of The Scheme Standard to remove the reference to Code Level 3.

This relates to the Code for Sustainable Homes. The code is no longer mandatory, and the 'green' credentials of any new-build dwelling is best controlled through the requirements of the building regulations.

- 5) To update the Mortgagee in Possession wording to reflect the Council's current standard wording.

This is a simple update to reflect the current good practice.

Parish/Town Council and Neighbour Comments

Castle Cary Town Council have raised concerns about the other proposed changes to the legal agreement, specifically in relation to the LEAP provision. However, these variations have now been dropped from the proposal.

Ansford Parish Council have objected to the application as they are opposed to any reduction in the affordability of the units proposed and the long term allocation of the agreed proportion of affordable units. However, the reduction in affordability proposed is from a 21% reduction on market rent to a 20% reduction, in line with government guidance in the NPPF. Such a reduction is considered to be negligible and, in any case, to accord with national planning policies. The proposal would not represent a reduction in "*...the long term allocation of the agreed proportion of affordable units.*"

A neighbouring occupier has raised a number of concerns. However, these all relate to the impact of the actual development (which has already been allowed) and not to the matters under consideration here.

Conclusion

There are no other material planning reasons that are known, or have been brought to the council's attention, why the agreement should not be varied as requested. As such, the application is considered to accord with the aims and objectives of the NPPF and policy HG3 of the South Somerset Local Plan and is recommended for approval.

RECOMMENDATION

To agree to allow the variation of the Section 106 agreement dated 13th October 2016 between South Somerset District Council, Somerset County Council, Waddeton Park Limited, and Michael John Berry and Joy Berry and to refer the matter to SSDC Legal Services to prepare an appropriate deed of variation.