



# **PLANNING COMMITTEE REPORT**

**TO:** Planning Committee

**BY:** Head of Development and Building Control

**DATE:** 13<sup>th</sup> May 2025

**DEVELOPMENT:** Variation of S106 agreement relating to DC/16/0728 (as amended by DC/21/1535) (Development of the site to provide 23 dwellings and 6 flats with ancillary parking, garaging, and landscaping, and the construction of a 106-space station car park, all served by new access on to Stopham Road. Construction of private parking bays to serve existing dwellings on Stopham Road served by new access from Stopham Road) to amend the tenure mix of proposed accommodation to provide for 100% affordable housing including replacement of all shared ownership dwellings with social rented dwellings.

**SITE:** Land Adjacent Railway Cottages and Pulborough Railway Station, Stopham Road, Pulborough, West Sussex, RH20 1DP

**WARD:** Pulborough, Coldwaltham and Amberley

**APPLICATION:** S106/22/0010

**APPLICANT:** **Name:** Mrs Tracey Ogbourne **Address:** Suite C Lancaster House, Grange Business Park, Enderby Road, Whetstone, Leicester, Leicestershire, LE8 6EP

**REASON FOR INCLUSION ON THE AGENDA:** By request of the Head of Development and Building Control

**RECOMMENDATION:** To agree the modifications to the S106 Agreement to enable the occupation of all dwellings as affordable housing and to amend the triggers for the delivery of the highway works.

## **1. THE PURPOSE OF THIS REPORT**

1.1 To consider the application.

### **DESCRIPTION OF THE APPLICATION**

1.2 The application has been submitted under 106A of the Town and Country Planning Act 1990 and seeks to modify the original Section 106 agreement attached to planning permission DC/16/0728 (as amended by DC/21/1535), which granted planning permission for 23 dwellings and 6 flats, and the construction of a 106-space station car park. The purpose of the modification to the S106 Agreement is to enable the site to be delivered as 100% affordable housing, including the replacement of all previously secured shared ownership and market dwellings with affordable and social rented dwellings.

1.3 The proposal also seeks to replace Plan 2 within the original s106 agreement with the revised site layout plan applied for under the parallel planning application DC/22/0661, and to update

the Highway Works obligations to reflect the fact that development on site has commenced (but has since ceased).

- 1.4 This proposal to modify the s106 agreement was initially made as part of the parallel planning application DC/22/0661 which sought to make material amendments to the approved development site layout and dwellings under s.73 of the Town and Country Planning Act. As part of the initial consultation for this parallel application, a number of objections were received some of which referred to the proposed replacement of the market homes with affordable homes. The proposal to modify the s106 was deleted from the parallel application and submitted under this separate application as the modifications were not necessary to enable the material alterations to the site layout and dwellings to be considered. The applicant and officers were keen that any legal matters arising in making any modification to the s106 did not otherwise hold up the determination of these other works.
- 1.5 The material amendments to the site layout and dwellings submitted under application DC/22/0661 are therefore considered separately to this application, which is for the modification of the s106 legal agreement only.

#### DESCRIPTION OF THE SITE

- 1.6 The application site lies partially within and partially outside of the built-up area boundary of Pulborough, with the part of the site approved for the station car park falling within the built-up area boundary. The remaining land for the approved 29 dwellings falls outside the built-up area boundary. The consent granted under DC/16/0728 for the 29 dwellings and station car park has been implemented by virtue of drainage works undertaken on the car park land in December 2021. The site otherwise remains undeveloped.
- 1.7 The land in the vicinity of the site slopes down towards the river Arun to the south, on the opposite side of Stopham Road. The South Downs National Park boundary is to the opposite side of the river, about 62m south of the site. To the west, the SDNP boundary is about 138m from the site boundary. The signal box to the north of the proposed car park site is a listed building. There is a row of 11 dwellings on the opposite side of Stopham Road, but these only extend for less than half the width of the application site. North of the site lies a field, which slopes up to a group of farm buildings and an area of woodland towards the crest of the hill. An archaeological notification area, Park Mound, lies towards the top of the hill, about 400m north west of the site.
- 1.8 The site is set at a higher level than Stopham Road, with the difference in levels most pronounced towards the eastern end of the site. Nos. 1 and 2 Railway Cottages have a high retaining wall to their front boundary, and this difference in levels continues west, with a steep bank (which is currently covered by a mix of trees and shrubs) rising from Stopham Road up to the application site. The existing access is gated and surfaced. The rear and western boundaries of the site are demarked by hedging and a few larger trees. The boundary with No. 2 Railway Cottages is demarked by close boarded fencing.
- 1.9 There is an existing access immediately to the west of the railway bridge which serves Railway Cottages and also provides maintenance access to the western side of the railway line. There is a layby off the access track which is used for parking by occupiers of Nos. 1 and 2 Railway Cottages, but which is understood to be within Network Rail's ownership. The existing access road to the north of Railway Cottages would be widened to allow public access to the proposed car park. The land proposed for car park use includes an area of roughly surfaced land immediately adjacent to the western platform, and encroaches into an area of disused railway sidings, which had been covered by self-seeded vegetation, although this has recently been partly cleared.

- 1.10 There is pavement in front of Nos. 1-11 Stopham Road, but none beyond this. The narrow width of the railway bridge means that there is insufficient space for pavement and there is no demarked pedestrian area under it.

## **2. INTRODUCTION**

### **STATUTORY BACKGROUND**

- 2.1 The Town and Country Planning Act 1990.

### **RELEVANT PLANNING POLICIES**

The following Policies are considered to be relevant to the assessment of this application:

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The following Policies are considered to be relevant to the assessment of this application:

#### **National Planning Policy Framework**

#### **Horsham District Planning Framework (HDPF 2015)**

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 15 - Strategic Policy: Housing Provision

Policy 16 - Strategic Policy: Meeting Local Housing Needs

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 40 - Sustainable Transport

Policy 41 - Parking

#### **Pulborough Neighbourhood Plan (post-examination)**

The Pulborough Neighbourhood Development Plan has been assessed by an Independent Examiner (28 July 2021) and subject to a series of recommended modifications meets the basic tests for the preparation of a neighbourhood plan and on that basis it has been recommended that the plan should proceed to referendum. A date for the Referendum has not yet been agreed or published. Although not 'made' the Neighbourhood Plan is considered to hold significant weight in the decision making process as has been through the public consultation stages and also through the Public Examination process. Relevant Policies include:

Policy 1 A Spatial Plan for the Parish

Policy 15 Design

#### **Planning Advice Notes:**

Facilitating Appropriate Development

Biodiversity and Green Infrastructure

### **PLANNING HISTORY AND RELEVANT APPLICATIONS**

DC/22/0661 Variation of Condition 1 of previously approved application DC/16/0728 (Development of the site to provide 23 dwellings and 6 flats with ancillary parking, garaging, and landscaping, and the construction of a 106-space station car park, all served by new access on to Stopham Road. Construction of private parking bays to serve existing dwellings on Stopham Road served by new access from Stopham Road) to amend the housing designs, site fencing, parking layout and unit mix. **DECISION PENDING**

DC/16/0728 Development of the site to provide 23 dwellings and 6 flats with ancillary parking, garaging, and landscaping, and the construction of a 106-space station car park, all served by new access on to Stopham Road. Construction of private parking bays to serve existing dwellings on Stopham Road served by new access from Stopham Road. Application Permitted on 12.11.2018

DC/21/1535 Variation of Conditions 3 and 5 of previously approved application DC/16/0728 (Development of the site to provide 23 dwellings and 6 flats with ancillary parking, garaging, and landscaping, and the construction of a 106-space station car park, all served by new access on to Stopham Road. Construction of private parking bays to serve existing dwellings on Stopham Road served by new access from Stopham Road), to enable the development (including drainage works) to commence not more than six months prior to the details of the proposed access being agreed to and approved in writing by the Local Planning Authority. Application Permitted on 26.10.2021

DISC/21/0052 Discharge of planning obligation to approved application DC/16/0728, in relation to Schedule 2, Part 5, Item 1 Application Permitted on 25.05.2021

DISC/21/0217 Approval of details reserved by conditions 7, 8, 9, 10 (car park only), 11 (car park only) and 12 to approved application DC/21/1535. Application Permitted on 28.10.2021

DISC/21/0252 Approval of details reserved by condition 6 to approved application DC/21/1535. Application Permitted on 09.11.2021

### **3. OUTCOME OF CONSULTATIONS**

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

#### **INTERNAL CONSULTATIONS**

##### **HDC Housing: Support**

The Housing Register in Pulborough currently has 155 households waiting for housing of which is broken down to 53 households in need of a 1-bedroom unit, 27 households in need of a 2-bedroom unit, 51 households in need of a 3-bedroom unit and 24 households in need of 4 or more bedrooms. Housing Officers support this application.

#### **OUTSIDE AGENCIES**

(As submitted under application DC/22/0661)

##### **Pulborough Parish Council: Object**

Objection and the Council would like this referred to HDC committee: On the grounds that this is a material difference to the planning application, sustainability of the development and concerns regarding the effect on water neutrality issues.

#### **PUBLIC CONSULTATIONS**

5 letters of objection received on the following grounds:

- Only 6 dwellings were for social housing, now it is 100%.
- The development was not commenced with 3 years, as required under DC/16/0728. This proposal should be considered as a new planning application.
- Previous commented made under DC/16/0728 should be considered.
- The housing has changed in layout, design as well ownership breakdown. The houses now lack the detail they originally had.

- This not a minor amendment and should be considered as a new application.

1 letter of representation commenting that

- A ramp should be provided both sides of the subway steps.

#### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS AND EQUALITY**

- 4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.
- 4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

#### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

#### **6. PLANNING ASSESSMENTS**

- 6.1 Planning permission DC/16/0728 (as subsequently amended by DC/21/1535) was granted on 12<sup>th</sup> November 2018 following the completion of a s106 legal agreement which secured 10 (35%) of the approved dwellings as affordable housing in compliance with the requirements of Policy 16 of the HDPF. Of the ten dwellings, the s106 required that five (2no. one-bed flats and 3no. two-bed flats) be provided as either social or affordable rent, and that five (1no. one-bed flat, 3no. two-bed houses and 1no. three-bed house) be provided as shared ownership.
- 6.2 The site has since been purchased by Stonewater who are a registered provider of affordable housing and wish all 29 dwellings to be occupied as affordable housing. The current wording of the s106 does not permit such occupation, limiting the number of affordable homes to 10 only.
- 6.3 The applicant (Stonewater) has submitted a draft variation to the s106 which confirms that the original 10 affordable housing units will now be provided as social rent housing, with the remaining 19 market dwellings to now comprise 6 social rent homes and 13 affordable rent homes. No market dwellings or shared ownership dwellings are now proposed.
- 6.4 The proposed modification will mean that the development as a whole becomes eligible for CIL social housing relief under Regulation 49 of the CIL Regulations, meaning the £347,415.88 sum that would otherwise have been paid by the developer for infrastructure improvements can no longer be secured. The loss of these CIL monies is a material consideration to balance against the benefit of the additional affordable homes.
- 6.5 The draft variation to the s106 clarifies that if any of the 19 former market homes are not occupied as affordable housing within the first 7 years owing to a 'disqualifying event' taking

place (e.g. they are sold for open market occupation), then then will be required to pay the CIL infrastructure contribution for that dwelling.

- 6.6 The draft variation includes further amendments to the mortgagee in possession clauses to bring them in line with the latest national standard wording, and to the obligations securing the approved highway works to reflect the fact that a technical commencement of development has taken place and ensure that the works continue to be required within the necessary timeframes. Officers are in agreement with these modifications.
- 6.7 In considering the modifications as a whole, the main consideration is whether the benefit of providing the 19 market homes as a mix of affordable rent and social rent homes outweighs the loss of CIL monies that would otherwise be paid by the development. The provision of 13 additional affordable rent homes and in particular 6 additional social rent homes would help ease pressure on the Council's housing waiting list, with eligible occupants required to have a local connection to Pulborough or, if there are no such occupants, a connection to Horsham district. It is noted that the Council's housing team are in support of the proposals.
- 6.8 Officers are of the view that the benefit of this additional affordable housing outweighs the loss of CIL receipts and would give rise to no other material concerns, including to the fostering of a mixed and balanced community within the development. When placed in the balance of all other considerations as set out in the original committee report attached as Appendices A and B, officers remain of the view that the development as a whole remains acceptable. The occupation of the dwellings as affordable homes will not result in any alteration to water consumption within the development. The water consumption from the amendments to the dwellings is considered separately under the parallel application DC/22/0661.
- 6.9 In considering modifications to a s106 agreement, Section 106A of the Town and Country Planning Act 1990 requires that an authority considers whether to leave the obligations unaltered, discharge the obligations if they serve no useful purpose, or accept the modification if the obligation continues to serve a useful purpose and the modification is such that the amended obligation would serve that purpose equally well. Having regard to the above balancing of the benefits of the proposed modifications versus the loss of the CIL receipts, and the other minor modifications sought, officers are of the view that the clauses within the s106 securing affordable housing on the site will continue to serve a useful purpose 'equally well' and as such meet the requirements of s106A of the Town and Country Planning Act 1990.
- Schedule 2, Part 3 Highway Works
- 6.10 Schedule 2 Part 3 of the S106 requires that no development is to commence until a Stopping Up Works scheme has been submitted, approved, requisite s278 and s38 consents obtained, and completed. The Stopping Up Works refers to the creation of residents parking bays on Stopham Road. Part 3 also requires that a Highway Works scheme has been submitted, approved, requisite s278 and s38 consents obtained, and completed. The Highway Works scheme is defined as the provision of parking bays, footways, a puffin crossing, and traffic signals on Stopham Road.
- 6.11 As a technical commencement of the planning permission took place in November 2021 under the amended DC/21/1535 application scheme, the applicants are now technically in breach of these obligations. WSCC Highways have advised that work to obtain the requisite consents from the Highways Authority commenced but then stalled, presumably due to the change in site ownership and the impact of water neutrality. WSCC Highways have advised that the Stopping Up Order to create parking bays on the Stopham Road was approved by the DfT National Casework team, but that the necessary further highway works consents have not been sought. There is though an agreed scheme of highway works to comply with the obligation that form part of a s.278 agreement submitted to WSCC, however the completion of this agreement remains outstanding.

- 6.12 In order to move the application forward, given the main requirement for the Stopping Up Order has been secured, WSCC Highways are happy that the triggers for the work be amended to pre-slab level rather than pre-commencement. To align with the corresponding conditions on DC/21/1535 Officers advise that the completion of the works should be within one year of their commencement or first occupation of a dwelling, whichever is sooner. Officers advise that these revised triggers will continue to suitably commit the applicant to delivering the required highway works which formed part of the package of mitigation and benefits from this development proposal.

## **7. RECOMMENDATIONS**

- 7.1 It is recommended that the application be granted and that the s106 is modified accordingly to reflect the changes sought by the Applicant, principally to facilitate the provision of 100% affordable housing on the site and to amend the delivery triggers for the highway works.