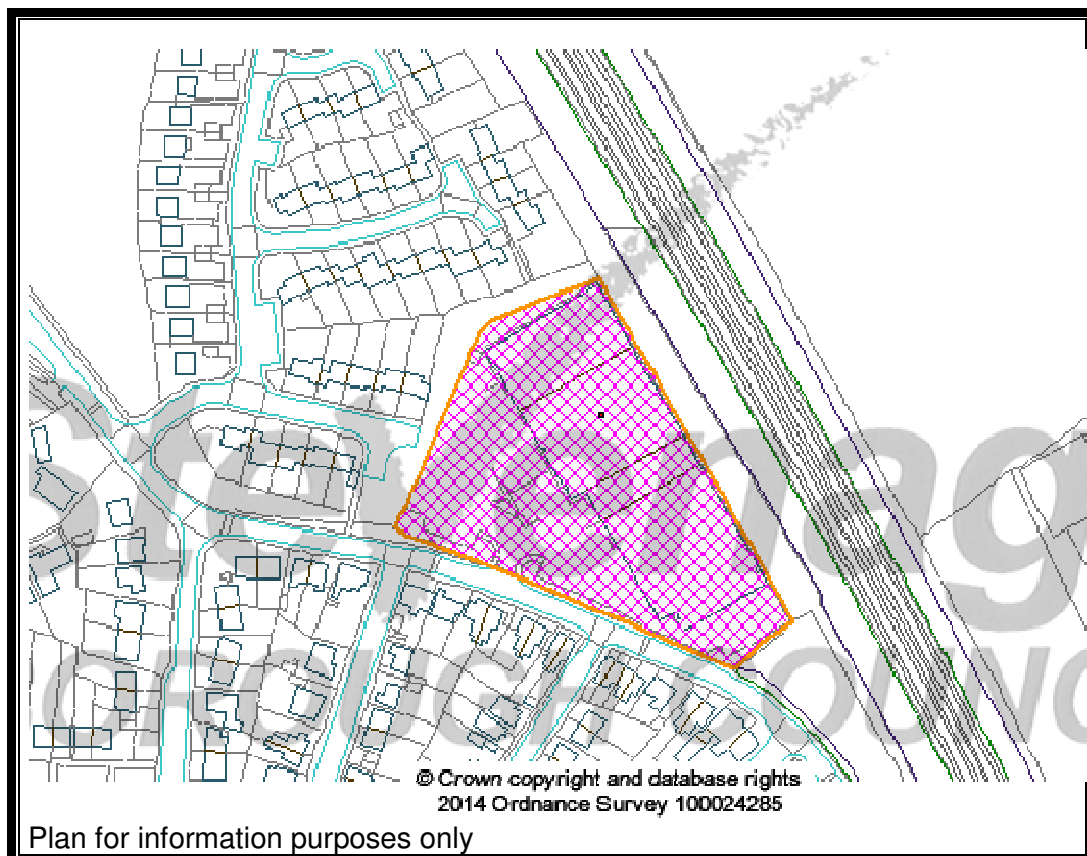


**Meeting:** Planning and Development Committee      **Agenda Item:** 5  
**Date:** 18 August 2015  
**Author:** Rebecca Elliott      01438 242836  
**Lead Officer:** Paul Pinkney      01438 242257  
**Contact Officer:** Rebecca Elliott      01438 242836

Application No:	15/00397/S106
Location:	Vincent Court, Fishers Green, Stevenage
Proposal:	Variation of Section 106 Agreement (dated 13th November 2014) to reduce the number of proposed dwellings from 41 to 37 as approved under planning permission reference number 14/00178/OPM Outline planning permission with all matters reserved for the demolition of existing buildings and re-development to provide 41no. dwellings and associated landscaping and parking.
Drawing Nos.:	Site location plan.
Applicant:	Keepmoat Homes Ltd
Date Valid:	3 July 2015
Recommendation:	AGREE VARIATION OF LEGAL AGREEMENT



## **1. SITE DESCRIPTION**

- 1.1 The application site is 1.01 hectares in size and comprises a small industrial site of four units with associated car parking, landscaping and vehicular access off Fishers Green Road. It is of a triangular shape. The southern boundary is denoted by a mature hedge and the access road has large steel gates in place. Fishers Green is located to the north west of the town. Other than the application site, the area is predominantly residential in character, with some small shops provided off the southern end of Fishers Green Road. Fishers Green Road runs the length of the southern boundary of the site. To the north and west of the site lies the residential estate of Sheringham Avenue, Bawdsey Close and Corton Close, and the north eastern boundary is bounded by the East Coast railway line.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 05/00038/OP - Outline application for residential development of houses and flats, including access and siting of dwellings. APPLICATION WITHDRAWN
- 2.2 06/00448/OP - Outline planning application for residential development of up to 52 dwellings including access. APPLICATION NOT PROCEEDED WITH
- 2.3 14/00178/OPM - Outline planning permission with all matters reserved for the demolition of existing buildings and re-development to provide 41no. dwellings and associated landscaping and parking. OUTLINE PERMISSION GRANTED

## **3. THE CURRENT APPLICATION**

- 3.1 The current application has been made under S106A part 6(b) of the Town and Country Planning Act 1990 (as amended) to seek permission to vary the wording of the S106 agreement which was attached to outline planning permission reference 14/00178/OPM. In particular the number of residential units proposed for the redevelopment of the Vincent Court site, by varying the definition of the terms "Development" and "Dwelling" under Clause 1 of the agreed terms. The variation is required because the signed S106 specifies the number of dwellings being 41. However, further to the submission of detailed plans, the number of dwellings has been reduced to 37 in order to work better with the layout of the development. As the reduced number is not in accordance with the original S106 agreement, the application therefore seeks the variation to allow for a reduced number of units on site, with all other aspects of the S106 being adhered to.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 A site notice has been erected in accordance with Section 5 (1) of the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulation 1992. No representations have been received.

## **5. CONSULTATIONS**

- 5.1 None required.

## **6. RELEVANT PLANNING POLICIES**

- 6.1 **Background to the Development Plan**

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014)
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007)
- The Stevenage District Plan Second Review 2004.

The former Stevenage Draft Core Strategy and Development Management Policies were withdrawn on 1st February 2012. However, the Site Specific Policies Plan, the Old Town Area Action Plan and the Gunnels Wood Area Action Plan have all been approved locally by the Council's executive as material considerations in the determination of planning applications and continue to be used for Development Management purposes. Additionally, the Council's Interim Planning Policy Statement adopted in April 2012 is a material consideration in the determination of planning applications registered on or after the 18 April 2012.

6.1.2 Where a Development Plan Document has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

6.1.3 In considering the policy implications of any development proposal the Local Planning Authority will assess each case on its individual merits, however where there may be a conflict between policies in the existing Development Plan and policies in any emerging Development Plan Document, the adopted Development Plan policies currently continue to have greater weight.

## **6.2 Central Government Advice**

6.2.1 In March 2012 the National Planning Policy Framework (NPPF) was published and in doing so it replaced many documents including all Planning Policy Guidance Notes and Planning Policy Statements. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 215 of the NPPF applies which states that only due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with it.

6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development.

6.2.3 In addition to the NPPF advice in the National Planning Practice Guidance (March 2014) also needs to be taken into account. It states that, where the development plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

## **6.3 Central Government Guidance**

National Planning Policy Framework (2012) (Framework)

## **7 APPRAISAL**

7.1 The main issue for consideration in the determination of this application is whether the proposed variation of Clause 1 and the definitions of “Development” and “Dwelling” attached to the S106 agreement of outline planning permission 14/00178/OPM are acceptable in policy terms.

### **7.2 Planning Policy Considerations**

7.2.1 Through Section 106a part 6(b) of the Town and Country Planning Act (1990), an application can be made to the Local Planning Authority to seek to vary the terms of a Section 106 agreement. This application has therefore been submitted, in accordance with the Town and Country Planning (Modifications and Discharge of Planning Obligations) Regulation 1992, to seek to vary the definition of the terms “Development” and “Dwelling” in Clause 1, of the agreed terms of the S106, to allow for a different number of dwellings on site.

7.2.2 Following the approval of the outline planning permission, the new owners of the site, Keepmoat Homes Ltd have submitted a detailed reserved matters application for 37 dwellings. The variation of the S106 would allow a lesser number of units than the 41 dwellings approved to be provided on site. The lesser figure will not affect the affordable housing allocation to be provided on site, agreed as 4 units.

## **8 CONCLUSIONS**

8.1 The application proposes to alter the wording of the existing S106 agreement. The proposed definition changes to allow the reduction of units from 41 to 37 are considered acceptable. The level of affordable housing will remain as previously agreed. It is therefore recommended that this deed of variation be agreed.

## **9 RECOMMENDATION**

9.1 That, the Committee agrees to the variation of Clause 1 (definition of terms “Development” and “Dwelling”) of the S106 agreement and delegate authority to the Head of Planning, Regeneration and Transport and the Head of Legal Services, or their successors to agree the deed of variation submitted by the applicant.

## **10 BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
3. Stevenage District Plan Second Review 1991-2011.
4. Central Government Advice contained in the National Planning Policy Framework March 2012.