

Meeting:	Planning and Development Committee	Agenda Item:
Date:	29 November 2023	
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Application No:	23/00529/S106
Location:	Land to the North of Stevenage, off North Road and Weston Road, Stevenage.
Proposal:	Modification of Schedule 2 Clause 2.2, 4.4, 4.5, 4.6 and 4.7, Schedule 3 Clause 3.2, Schedule 5 Part 1 Clause 1.2, 1.5 and 2.1.1 and Schedule 7 Clause 2.1 and 2.4 to Section 106 Agreement (dated 01.09.2022) approved under planning permission reference number 17/00862/OPM.
Drawing Nos.:	N/A
Applicant:	Bellway Homes (North London) and Miller Homes Ltd
Date Valid:	23 August 2022
Recommendation:	APPROVAL TO MODIFY S106 PLANNING OBLIGATION.

1. SITE DESCRIPTION

- 1.1 The application site which measures approximately 75 hectares in area is located to the north of Stevenage and is situated to the east of North Road, to the north east of Granby Road and Chancellors Road and to the west of Weston Road and Great Ashby Way. To the north are agricultural fields. This site is agricultural land comprising a number of arable fields with semi mature hedgerows and trees. The site undulates with a ridgeline running along the northern boundary which adjoins trees. There are two sets of electricity pylons running through the site, with 132Kv pylons toward the north of the site and 440Kv pylons within the centre of the site.
- 1.2 The northern boundary of the site adjoins the borough boundary with North Hertfordshire District Council (NHDC). The land to the north of this is included in the adopted NHDC local plan for residential development. To the west the site faces onto North Road and the Wrenbridge employment site currently under construction, adjacent to which is the nearby Rugby Club and Lister Hospital. Along the south western boundary of the site is a public footpath/bridleway which runs along the boundary with properties in Chancellors Road, Granby Road and respective cul-de-sac spur roads. There are also footpaths running through the site to land to the north. To the east of the site is Weston Road which contains the Cemetery to the south west and the nearby St Nicholas Church and adjoining listed buildings on Rectory Lane. Finally, also to the east of the site is Rooks Nest Farm which comprises a number of listed buildings including the grade II listed farm itself and associated outbuildings and Rooks Nest House which is a grade I listed building. The south eastern part of the site is located within the St Nicholas and Rectory Lane Conservation Area and the Green Belt.

2. RELEVANT PLANNING HISTORY

- 2.1 Planning application 17/00862/OPM granted Outline consent for the erection of 800 residential dwellings, creation of a new local centre, provision of a primary school, provision

of landscaped communal amenity space including children's play space; creation of new public open space together with associated highways, landscaping, drainage and utilities works. The application was accompanied by an Environmental Statement. The decision was issued on 1st September 2022 following completion of a Section 106 Agreement.

- 2.2 Application 21/01354/FP granted permission for access works (comprising a new access to land to the west of North Road) on North Road, Stevenage in association with the Employment development on land to the west of North Road. The decision was issued on 1 April 2022.
- 2.3 Application reference 22/00781/RMM is currently being considered for the reserved matters application for the construction of a Country Park including access, layout and landscaping pursuant to Outline permission 17/00862/OPM.
- 2.4 Application reference 22/00806/RMM for the approval of reserved matters (layout, landscaping, scale, and appearance) for residential development of 115 units comprising Phase 1 Parcels D pursuant to Outline permission 17/00862/OPM was approved by members at the committee meeting of 26 October 2023. The decision is awaiting issuing subject to final sign-off of the drainage proposals by the Council's Drainage consultants.
- 2.5 Application reference 22/00808/RMM for the approval of reserved matters for Site Wide Infrastructure including Highways Infrastructure, Drainage and Surface Water, and Green Infrastructure pursuant to Outline permission 17/00862/OPM was approved by members at the committee meeting of 9 February 2023 and the decision was issued on 15 March 2023.
- 2.6 Application reference 22/00810/RMM for the approval of reserved matters (layout, landscaping, scale, and appearance) for residential development of 243 units comprising Phase 1 Parcels A-C and commercial unit (Use Class E) pursuant to Outline permission 17/00862/OPM was approved by members at the committee meeting of 9 February 2023 and the decision was issued on 15 March 2023.
- 2.7 Application reference 22/00850/NMA was granted for a non-material amendment to outline planning permission 17/00862/OPM to amend wording of conditions 4, (Approval of Details), 18 (Service and Delivery Plan) and 37 (Power Lines). The decision was issued on 17 October 2022.
- 2.8 Application reference 22/00840/COND for the discharge of condition 36 (Flood Risk) attached to planning permission reference number 17/00862/OPM was approved on 6 November 2023.
- 2.9 Application reference 22/00841/COND for the discharge of condition 14 (Construction Management Plan - Temporary Access) attached to planning permission 17/00862/OPM was approved on 31 March 2023.
- 2.10 Application reference 22/01099/COND for the discharge of conditions 7 (Method Statement Ecology) and 8 (Construction Environmental Management) attached to planning permission 17/00862/OPM was approved on 31 March 2023.
- 2.11 Application reference 23/00013/NOI as a notice of intent to ground the overhead power lines and install two terminal towers under Section 37 of the Electricity Act 1989 and in accordance with the Overhead Lines (Exemption)(England and Wales) Regulations 2009, as permitted development was agreed on 6 February 2023.
- 2.12 Application reference 23/00011/CLPD for a Certificate of Lawfulness (Proposed) for the erection of a 3m high brick wall enclosure around proposed terminal tower 314A (subject to Section 37 of the Electricity Act) adjacent North Road was agreed on 22 February 2023.

- 2.13 Application reference 23/00014/TPTPO for works to trees covered by tree preservation orders to include the cutting back of mixed broadleaf trees (T47-T60) under TPO 71 along Bridleway 022 adjacent to No. 22 North Road and No.11 Granby Road was approved on 24 February 2023.
- 2.14 Application reference 23/00070/COND for the discharge of condition 9 (Biodiversity Monitoring Strategy) attached to planning permission 17/00862/OPM was approved on 11 April 2023.
- 2.15 Application reference 23/00086/TPCA for works to trees sited within the Conservation Area to include works to various mixed broadleaf hedgerows, mixed saplings and Elm saplings within the Conservation Area to provide minimum height clearance of 3.4m to 5.2m and minimum width of 3m to Bridleways 022 and 023 was agreed on 24 February 2023.
- 2.16 Application reference 23/00204/COND for the discharge of condition 6 (housing and infrastructure phasing plan) attached to planning permission reference number 17/00862/OPM was approved on 16 May 2023.
- 2.17 Application reference 23/00205/COND for the discharge of condition 22 (Highways infrastructure (d) bus stops) attached to planning permission 17/00862/OPM was approved on 11 April 2023.
- 2.18 Application reference 23/00206/COND for the discharge of conditions 27 (Archaeological trial trench) and 28 (Archaeological Mitigation) attached to planning permission 17/00862/OPM were approved on 04 July 2023.
- 2.19 Application reference 23/00215/COND for the discharge of condition 5 (phasing plan) attached to planning permission reference number 17/00862/OPM was approved on 31 May 2023.
- 2.20 Application reference 23/00216/COND for the partial discharge of condition 37 (power lines and pylons) attached to planning permission reference number 17/00862/OPM relating only to the technical specifications and general phasing plan was approved on 04 July 2023.
- 2.21 Application reference 23/00310/NMA for a non-material amendment of reserved matters (layout, landscaping, scale, and appearance) for residential development of 243 units comprising Phase 1 Parcels A-C and commercial unit (Use Class E) pursuant to Outline permission 17/00862/OPM relating to make changes to the external appearance of blocks 1-4 in the local centre to include Juliet balconies and brick detailing; addition of block paving around the play area in the local centre; changes to parking area around block 1; changes to hard surface materials to commercial and rear parking area of block 1; addition of a disabled bay at block 1; erection of a new sub-station; and change in orientation of plots 60-62, 70 and 71 in the Bellway sales area to include change in house type from TH to MA was approved on 31 May 2023.
- 2.22 Application reference 23/00360/NMA is currently being considered for a non-material amendment of reserved matters application 22/00808/RMM to amend condition 2 (approved plans) with regards to SuDS basins, drainage layout, planting, hard surface materials, boundary treatments, landscaping and pedestrian routes.
- 2.23 Application reference 23/00377/COND is currently being considered for the discharge of condition 35 (Drainage Strategy) relating to side wide infrastructure, attached to planning permission reference number 17/00862/OPM.
- 2.24 Application reference 23/00378/COND for the discharge of condition 26 (hard surface materials) relating to site wide infrastructure, attached to planning permission reference number 17/00862/OPM was approved on 17 July 2023.

- 2.25 Application reference 23/00430/COND is currently being considered for the discharge of condition 35 (Drainage Strategy) relating to Phase 1A-C, attached to planning permission reference number 17/00862/OPM (Phase 1A-C).
- 2.26 Application reference 23/00431/NMA for a Non-Material Amendment to reserved matters approval reference 22/00810/RMM to replace bay windows with flush windows on some dwellinghouses was approved on 06 July 2023.
- 2.27 Application reference 23/00509/COND for the discharge of condition 26 (Materials) relating to the Bellway Homes plots, attached to planning permission reference number 17/00862/OPM was approved on 13 September 2023.
- 2.28 Application reference 23/00526/RMM for the approval of reserved matters (layout, landscaping, scale, and appearance) for residential development of 243 units comprising Phase 1 Parcels A-C and commercial unit (Use Class E) pursuant to Outline permission 17/00862/OPM was approved by members at the committee meeting of 26 October 2023 and the decision was issued on 6 November 2023.
- 2.29 Application reference 23/00551/COND for the discharge of condition 26 (Hard Surfacing Materials) relating to the Miller Homes plots, attached to planning permission reference number 17/00862/OPM was approved on 14 September 2023.
- 2.30 Application reference 23/00656/COND is currently being considered for the discharge of condition 11 (Piling and Foundation) attached to planning permission reference number 17/00862/OPM.
- 2.31 Application reference 23/00667/COND is currently being considered for the discharge of condition 7 (Bat and Swift Boxes) relating to Phase 1A-C attached to reserved matters permission reference number 23/00526/RMM.
- 2.32 Application reference 23/00668/COND is currently being considered for the discharge of condition 13 (External Lighting) relating to Phase 1A-C attached to reserved matters permission reference number 23/00526/RMM.
- 2.33 Application reference 23/00669/COND is currently being considered for the discharge of Condition 14 (External Materials) relating to Phase 1A-C attached to reserved matters permission reference number 23/00526/RMM.

3 RELEVANT PLANNING POLICIES

3.1 Background to the Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For Stevenage, the statutory development plan comprises the following documents:

- The Stevenage Borough Council Local Plan 2011-2031 (adopted 2019)
- The Hertfordshire Waste Core Strategy & Development Management Policies Development Plan Document 2011-2026 (adopted 2012)
- The Hertfordshire Waste Site Allocations Development Plan Document 2011-2026 (adopted 2014)
- The Hertfordshire Minerals Local Plan Review 2002-2016 (adopted 2007)

3.2 National Planning Policy Framework

3.2.1 A revised National Planning Policy Framework (“NPPF”) was published in September 2023. This largely made minor corrections to the earlier July 2021 version and revised policy with respect to onshore windfarms. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up-to-date for the purposes of determining planning applications. The NPPF provides that proposals which accord with an up-to-date development plan should be approved without delay (Paragraph 11) and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (Paragraph 12). This indicates the weight which should be given to an up-to-date development plan, reflecting the requirements of section 38(6) of the 2004 Act.

3.2.2 The Council is now commencing preliminary work into a review of its Local Plan, last adopted in May 2019. This is to ensure the policies within the Local Plan are up to date in accordance with the NPPF as well as ensuring the Council is delivering a sufficient supply of housing and employment.

3.3 Planning Practice Guidance

3.3.1 The Planning Practice Guidance (“PPG”), with which Members are fully familiar, is an online resource containing guidance supplementing the NPPF. The PPG is a material consideration which should be taken into account in determining planning applications.

3.4 Stevenage Borough Local Plan

3.4.1 The Local Plan policies most relevant to determining the application are as follows:

- SP5 Infrastructure
- SP7 High quality homes
- IT2 Infrastructure
- HO3 North of Stevenage
- HO7 Affordable Housing Targets
- HO8 Affordable Housing Tenure, Mix and Design

3.5 Supplementary Planning Documents

3.5.1 The following supplementary planning documents are relevant to determining the application:
Developer Contributions SPD 2021

4. **PUBLIC REPRESENTATIONS**

4.1 The application has been publicised by way of site notices. No representations have been received for the application.

5. **S106 AGREEMENT**

5.1 The S106 agreement signed pursuant to approval of outline permission 17/00862/OPM was completed and dated on 1 September 2022. The extensive document sets out the financial and non-financial contributions and commitments of the proposed development to provide 800 residential dwellings, the creation of a new local centre, provision of a primary school, provision of landscaped communal amenity space including children's play space; creation of new public open space together with associated highways, landscaping, drainage and utilities works.

6. **PROPOSED VARIATION OF S106 AGREEMENT**

- 6.1 The proposed variations to the S106 agreement have evolved due to delays in the respective reserved matters applications process, from requiring amended plans to gaining approval. In particular the Country Park reserved matters application (Planning Reference 22/00781/RMM) following deferral of the application at the March 2023 Planning Committee meeting.
- 6.2 Many of the clauses in the S106 which relate to the Country Park state 'Prior to commencement' as the trigger point for further information to be submitted and approved or for instruction to be given on a matter. The wording 'Prior to commencement' as approved in the S106 relates to works within any part of the site. This would mean no works could take place until the clauses relating to the Country Park have been met. However, the clauses can't all be met until the reserved matters application for the Country Park has been approved.
- 6.3 The Local Planning Authority have currently formally agreed with the developers that no injunction order will be taken against the S106 agreement clauses where works have commenced on site for matters pertaining to infrastructure and residential phases already approved. This is because none of these areas directly impact the area of the site in which the Country Park is located or prejudice any of the Country Park specific clauses in the S106.
- 6.4 The changes required to the clauses set out in the table below, would allow for a change in the wording of the trigger point from 'Prior to commencement' to 'Prior to commencement of development in the Country Park pursuant to the Country Park RMA approval'. Furthermore, the changes to the trigger points relate to the number of houses that can be occupied prior to transfer of land, or payment of contributions. The delays faced through the planning process and determining the Country Park application mean the current S106 trigger points are not possible and if maintained would prevent housing from coming forward at the anticipated build rate. This is not preferable for the Council in terms of housing numbers and the current 5-year land supply figures. Thus, these changes are considered acceptable to prevent such delays.

s106 Obligation	Current s106 Trigger	Amended s106 Trigger
Schedule 2, Clause 2.2 - Submission and approval of the Country Park Landscape and Management Document	Prior to commencement	Prior to commencement of development in the Country Park pursuant to the Country Park RMA approval
Schedule 2, Clause 4.4 - Completion and Transfer of Phase 2A of the Country Park	Within 5 years of implementation or by 31st December 2026, whichever is the earliest.	Prior to Occupation of 500 dwellings or by 31st December 2027
Schedule 2, Clause 4.5 - Completion and Transfer of Phase 2B of the Country Park	Prior to the 31st July 2027	Prior to the 31st December 2027
Schedule 2, Clause 4.6 - Practically Complete and Transfer of the 1st Phase of the Country Park; and paid the First Country Park Contribution	No more than 250 Residential Housing Units (85 shall be in Conservation Area) to be Occupied	No more than 500 Residential Housing Units shall be Occupied
Schedule 2, Clause 4.7 - Practically Complete and Transfer of Phase 2A of the Country Park	No more than 450 Residential Units to be Occupied	No more than 500 Residential Housing Units shall be Occupied
Schedule 5, Part 1, Clause 1.2 - Complete Servicing Works	No later than 3 years and 6 months from the Commencement Date	No later than 1 year and 6 months from the Commencement Date

Schedule 5, Part 1, Clause 1.5 - Practically Complete the Servicing Works	Not to occupy more than 225 Residential Housing Units	Not to occupy more than 350 Residential Housing Units
Schedule 5, Part 1, Clause 2.1.1 - School Land Transfer	Within 3 months of the date of the Servicing Works Completion Notice. Transfer shall occur either on the first occupation of the 225th Residential Housing Unit or by the end of December 2024	On the first occupation of the 400th Residential Housing Units or by the end of March 2026.
Schedule 7, Clause 2.1 - Approval of the SUDs Strategy for the Country Park	Prior to commencement	Prior to commencement of development in the Country Park pursuant to the Country Park RMA approval
Schedule 7, Clause 2.4 – Payment of the SUDs Maintenance Contribution	Prior to commencement	Prior to commencement of development in the Country Park pursuant to the Country Park RMA approval
Definitions – amend table in the definition of ‘Affordable Housing Mix’	Shows provision of 144no. 1 and 2 bedroom flats and 60no. 2 bed houses	To show provision of 146no. 1 and 2 bed flats and 58no. 2 bed houses
Schedule 3, Clause 3.2 – Approval of the Phased Open Space Plan and the Open Space Specification	Prior to commencement	Amend to remove the requirement or to state that such approval can be granted via the discharge of conditions on any Reserved Matters Consents

6.5 The second to last change in the table relating to affordable housing numbers stems from the provision of units to be delivered in Phase 2 (Northern parcels of the development site). This is based on plans which will accompany a further reserved matters applications, as advised by the developers, towards the end of November 2023 for this phase of the development. The number of flats in the proposed apartment blocks in this northern side of the development would provide for two additional affordable flat units. Consequently, it has been informally agreed that a reduction in the provision of 2x two bed houses could be substituted with the flat requirement increase. This would ensure the total percentage of affordable housing is still policy compliant. The change in this clause of the S106 would ensure this is balanced out in the legal agreement and on plan.

7. PLANNING BALANCE AND CONCLUSIONS

7.1 In summary, the proposed changes to the clauses of the S106 agreement as listed in the table above are considered acceptable and allows the development of the site in terms of infrastructure and residential housing to come forward whilst the Country Park proposals are concluded and started at different times. The trigger point changes take account of the delay in the Country Park phase coming forward and enable the continued delivery of housing whilst the Country Park proposals continue on a later timeframe than originally anticipated. The Local Planning Authority are agreeable to the changes and are confident that the aims and objectives of the S106 are not prejudiced by the changes being sought.

8. RECOMMENDATIONS

8.1 That approval be GRANTED for a variation to the S106 Planning Obligation as set out in the above table and subject to final drafting and to delegate authority to the Assistant Director of

Planning and Regulation in conjunction with the Council's appointed Solicitor to agree the precise wording of the variation to the agreement.

9. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Council Supplementary Planning Documents –Stevenage Borough Council Developer Contributions adopted March 2021.
3. Stevenage Borough Local Plan 2011-2031 adopted 2019.
4. Hertfordshire County Council's Local Transport Plan 4 adopted May 2018.
5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
6. Central Government advice contained in the National Planning Policy Framework September 2023 and Planning Policy Guidance.