



1.0 APPLICATION NUMBER: WD/D/19/000794

APPLICATION SITE: POUNDBURY PHASES 3 AND 4, POUNDBURY

PROPOSAL: Modification of planning obligations of Section 106 Agreement dated 20th December 2011 of planning approval 1/D/09/001363

APPLICANT: Duchy of Cornwall

CASE OFFICER: Ann Collins

WARD MEMBER(S): Cllr R Biggs

2.0 Summary of Recommendation:

2.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20th December 2011 to:

- Omit provision of a ball wall and 300 seat community hall.
- Provide one NEAP and one LEAP in a combined area on the Great Field with at least 18 pieces of play equipment and an area of 1800 sq m.
- Omit requirement for a second LEAP in phases 3 and 4 of the development.

3.0 Reason for Recommendation:

3.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact on the provision of community facilities in Poundbury and would not be detrimental to the creation of a mixed use sustainable development. Furthermore it is considered that the modification of the S106 agreement would not result in development that would adversely impact on the visual amenity of the AONB.

4.0 Table of Key Planning Issues

Issue	Conclusion
Provision of community facilities and a mixed use sustainable development	The proposed modifications to the S106 agreements are considered to have an acceptable impact on the provision of community facilities and would not be

	detrimental to the continued build out of this mixed use development or to the wider provision of community facilities within Dorchester.
Impact on visual amenity and the AONB	Not providing the hall and ball wall would not in itself have any adverse impact on visual amenity and the AONB. The proposed extent of play area and the types of play equipment can be controlled via the S106 agreement and therefore officers retain control over these matters.

5.0 Description of Site:

5.1 The S106 agreement dated 20th December 2011 relates to phases 3 and 4 of the Poundbury development on the western edge of Dorchester. The agreement is associated with the outline planning permission 1/D/09/001363 for the development of the land by the erection of 1200 dwellings, a new 450 children primary school, 25000 sq metres of non-residential development and associated roads, drainage and other infrastructure. Make alterations to the existing Monkey's Jump roundabout on the A35(T).

5.2 Phases 3 of 4 of Poundbury are within the defined development boundary of Dorchester and within the designated Area of Outstanding Natural Beauty. Several hundred of the houses in phase 3 are complete and occupied, more are under construction currently. A number of reserved matters applications have been submitted and approved for phase 3 of the development, but reserved matters applications for phase 4 have not yet been submitted. The primary school is also completed and operational (Damers First School) and non-residential development has been constructed, with some already in use. The Dorchester Community Church has been built within phase 3.

6.0 Description of Development:

6.1 This application seeks to modify the S106 agreement in three ways:

a) The S106 agreement currently requires the provision of a Neighbourhood Equipped Area of Play (NEAP) and Locally Equipped Area of Play (LEAP) on the Great Field and the provision of a further LEAP elsewhere within phases 3 and 4. The proposal is that the NEAP and LEAP on the Great Field would be provided in a single area, rather than being at least 530m apart as required by the agreement currently and that no further LEAP would be provided within phases 3 and 4.

b) The S106 agreement currently requires that a ball wall be constructed prior to the commencement of development. Development commenced on phase 3 some time ago and the ball wall on the Great Field has never been provided.

However a multi-use games area was granted planning permission some years ago and has been provided on the Great Field in lieu of the ball wall. This application therefore seeks to delete the requirement for a ball wall from the legal agreement.

c) The S106 agreement requires that by the occupation of the 600th dwelling a 300 seat community hall shall be provided and made available for use. The agreement does allow for the community hall to be located within the school site and to have a dual use provided it is accessible as a community facility. The proposal is to delete the requirement for a 300 seat community hall from the legal agreement.

7.0 Relevant Planning History:

Application No.	Application Description	Decision	Date of Decision
1/D/09/001363	Develop land by the erection of 1200 dwellings, a new 450 children primary school, 25000m ² of non-residential development and associated roads, drainage and other infrastructure. Make alterations to the existing Monkey's Jump roundabout on the A35(T)	Approved	20/12/11
1/D/12/000082	Erect 505 dwellings, 6,254 sq. m. of commercial floorspace together with associated garages, roads, accesses and open space. Reserved matters pursuant to outline planning permission 1/D/09/001363	Approved	17/9/12
1/D/13/000847	To provide play equipment for older young people at the Great Field	Approved	5/9/13
WD/D/19/001012	Application for approval of reserved matters for access, appearance, layout, scale and landscaping in relation to outline planning permission 1/D/09/001363 - 3		

	commercial units and 31 apartments		
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8.0 List of Constraints:

- Within the defined development boundary for Dorchester in the adopted local plan
- Within the allocation DOR1 in the adopted local plan
- Area of Outstanding Natural Beauty (statutory protection in order to conserve and enhance the natural beauty of their landscapes – National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

9.0 Consultations:

9.1 Dorset Council Implementation Team Leader:

Play Provision:

The WDDC Planning Obligations SPD (2010) recommends that a NEAP has at least 1000 sq m of activity area including hard surface area as a MUGA and at least 8 types of play equipment. A LEAP should have at least 400 sq m of activity area and at least 5 types of play equipment.

The application states that provision is being made for 8000 sq m of activity space (including landscaping) and 20+ types of equipment. Measuring the illustrative landscaping plan that accompanies the compliance with conditions application reference WD/D/18001929 it suggest there is approximately 7400 sq m of activity space (excluding landscaping). The level of activity space proposed is effectively 4 x the space required by the SPD.

The amount of play equipment proposed by the modification exceeds the 18 pieces of equipment that would be delivered from the 2 LEAPs and one NEAP. Furthermore, a MUGA which forms part of the modification facilitates a broader spectrum of play than the originally agreed ball wall.

The modification also seeks to concentrate all play equipment in one location on the Great Field rather than spread separately in smaller pockets across a wider area. Given the extensive public consultation and collaboration with Dorchester Town Council, I am content that the modifications relating to the specification and location of play improve the play offer and meets the needs of the area. I recommend that this particular modification should be considered acceptable in planning terms.

Community Hall Provision:

The requirement for a Community Hall is set out in the Poundbury Development Brief (2006). Recent public consultation has suggested that there is no longer a need for a 300 seater hall to the specification which is set out in the S106 agreement given the provision of new community venues elsewhere in Poundbury and Dorchester.

Recent community hall provision at the new Damers School Hall (150 seat capacity) and Dorchester Community Church (180 seat capacity) and their potential for linkage to create a larger single venue (subject to agreement and physical works) largely fulfils the requirement set out in the Development Brief. While these venues do not provide 300 seats, the lack of demand for this size of venue as shown through the consultation should be a material consideration. As such I consider that the modification of the S106 to remove the obligation for a 300 seater community venue should be considered under these circumstances.

9.2 Dorchester Town Council:

The Town Council's Planning and Environment Committee considered the letter from the applicant giving the background to the proposals and they accepted the modifications to the S106 agreement relating to the removal of the provision of public open space facilities.

Members understood the reasoning for not providing a 300 seater Community Hall and supported this in principle but did not consider that the Jubilee Hall could be classed as a direct alternative for this, by virtue of its size. Also members were concerned that the removal of the planning obligation to provide this community hall would also remove the associated financial S106 obligation and Members did not consider that this as acceptable. They considered that the applicant would not be financially disadvantaged by the removal of the planning obligation and that the opposite was likely.

It was agreed that the committee recommended refusal of the removal of the planning obligation to deliver a 300 seat community hall unless the associated financial S106 obligation would be delivered.

Representations received:

One representation has been received from Dorchester Arts who support the application and make the following comments in summary:

- Concerned about the viability of a community hall in the context of both the existing and planned facilities elsewhere in the town. Such a venue would probably need to stage ticketed performances in order to be viable and this might

split audiences for existing or future venues in the town and in turn jeopardise their viability.

- Discussions with many residents of Poundbury have led the writer of the representation to believe they are supportive of a significantly upgraded venue in the town centre and would prefer to see that happen than to have the Crown Hall built through obligation rather than necessity.
- The concept of a visitor centre in Jubilee Hall might provide the opportunity to provide better information to the residents of Poundbury about events in the town and surrounding area.

10. Relevant Policies:

Adopted West Dorset and Weymouth & Portland Local Plan (2015)

ENV1 Landscape, Seascape and Sites of Geological Interest

ENV10 The Landscape and Townscape Setting

ENV16 Amenity

COM1 Making Sure New Development Makes Suitable Provision for Community Infrastructure

COM3 The Retention of Local Community Buildings and Structures

COM4 New or Improved Local Recreational Facilities

COM5 The Retention of Open Space and Recreational Facilities

DOR1 Poundbury Mixed Use Development

National Planning Policy Framework

As far as this application is concerned the following section(s) of the NPPF are considered to be relevant;

4. Decision-making
8. Promoting healthy and safe communities
15. Conserving and Enhancing the natural environment

Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Poundbury Development Brief (2006):

Community Hall Para 13.2 – The Brownsword Hall in Pummery Square, on Phase 1 of the development, is successfully meeting the needs of the early

phases of development but a larger hall will be needed for the additional population in future. This was emphasised during early public consultation on the development brief. The additional hall should be located so that it is within easy walking distance for as many residents as possible. It should include a main hall sufficiently large to accommodate 300 people, and should include a range of rooms of varying sizes so as to enable flexible use. The main hall should be capable of accommodating a range of community uses, which could include performance by amateur or touring theatre or music groups. It is therefore important that the design takes into account the special technical requirements (acoustics etc) necessary for performance. The potential for accommodating the hall in the central square, or as a shared facility (for example within the new school) is outlined in paragraph 4.6.

District Centre Para 4.6 – The accessibility of the central square also means that it will be a suitable location for the provision of a larger community hall. However, an alternative location elsewhere in the development can be considered if it can be established that it will provide the same level of facilities, and be in an equally accessible location. For example, this would allow consideration of the shared use of the new school hall.

Recreation Para 13.14 – Existing recreation facilities include an equipped children’s play area and older children’s kickabout area south-west of Holmead Walk on phase 1, an equipped children’s play area on the area enclosed by Woodlands Crescent on phase 2, and boules playing area adjoining the Belvedere.

Recreation 13.15 – Uses identified for provision on the Great Field include a cricket pitch, two junior football pitches, sports wall and basketball net. These more formal facilities should be located at the southern end of the Great Field, which will become a focus for the local community, from both Poundbury and adjoining parts of Dorchester. As discussed in Principles 3 and 16, the northern part of the Great Field should provide a more informal recreation area, also managed for chalk grassland wildlife habitat, and providing an attractive rural setting for walking, running and picnics.

Recreation 13.16 – Further equipped children’s play areas will be needed on the site. These may be located on the Great Field and within the proposed green squares within the development.

Planning Obligations SPD (2010)

Dorset AONB Management Plan 2019 – 2024

11. Human Rights:

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.
The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12. Public Sector Equalities Duty:

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED

13. Financial Benefits:

13.1 Provision of play areas totalling a minimum of 1800 sq m and having a minimum of 18 pieces of play equipment.

14. Planning Assessment:

14.1 Provision of Community Facilities and the Creation of a Mixed Use Development – The Ball Wall

14.1.1 A ball wall was required by the S106 agreement to be provided on the Great Field prior to the occupation of the first dwelling in phases 3 and 4. A ball wall has never been provided, however, a multi use games area (MUGA) has been constructed.

14.1.2 An application was submitted in 2013 for play equipment for older young people at the Great Field. This application included a number of pieces of play equipment including a zip wire and a 22m by 12m fenced hard surfaced sports arena with markings and hoops. These pieces of play equipment and the sports arena (MUGA) were not required by the S106 agreement but were the result of consultation with young people and the residents association and were in addition to the already existing outdoor gym and youth shelter.

14.1.3 The fact that a MUGA has been provided is considered to negate the need for a ball wall. There are existing football goals, plus the MUGA, which enable the playing of ball games such as football and basket ball. Therefore it is considered that to no longer require the provision of the ball wall would not adversely impact on the range of recreational facilities provided at the Great Field, sufficient opportunities for ball games and practice would remain.

14.2 Provision of Community Facilities and the Creation of a Mixed Use Development – NEAP and LEAPS

14.2.1 The S106 agreement currently requires the provision of a NEAP and a LEAP on the Great Field and specifies the distance apart from each other that they must be. It also requires the provision of a further LEAP at the western end of phases 3 and 4.

14.2.2 The proposal by the applicant now is to provide the LEAP and NEAP at The Great Field as a combined area and the second LEAP is no longer proposed. There are two existing LEAPs at Poundbury, the first being in phase 1 adjacent to Holmead Walk, and the second in phase 2 adjacent to the Poundbury Garden Centre. There are also the existing play facilities at the Great Field as discussed above.

14.2.3 Officers have been provided with details of what is proposed for the NEAP and LEAP as part of a compliance with condition application for the landscaping of the Great Field. Those plans show an area of 8000 sq m (including landscaping) and 20 pieces of play equipment (plus 3 existing pieces of play equipment, the existing hard surfaced sports arena and proposed natural play with boulders, timber sleepers and a willow archway walk). The current requirements of the S106 agreement would be for a total area of 1800 sq m across phases 3 and 4 and 18 pieces of play equipment. What is currently proposed is therefore far in excess of what the agreement requires to be provided. They would however be in a single area within the Great Field and there would be no provision proposed for the western end of the Poundbury development (however halfway between the western edge and the Great Field is the existing LEAP adjacent to the Poundbury Garden Centre, plus there is a bus service that runs along Peverell Avenue should someone wish to take a bus from one end of the development to the other in order to access the Great Field other than by foot).

14.2.4 The applicant has submitted supporting information with the application advising that there was a public consultation in 2018 on the future of The Great Field and the Duchy's proposals for landscaping and play provision. The Duchy concluded from that there was a preference for all play areas and equipment to be focused on The Great Field.

14.2.5 The proposal is therefore to modify the S106 agreement to allow for the provision of a combined NEAP and LEAP at The Great Field. The agreement can be modified to require details of the play equipment and future management and maintenance arrangements to be submitted (currently it is proposed that the play area would be the responsibility of the Town Council to manage and maintain) prior to installation taking place and could specify a minimum area and number of pieces of equipment. To that end whilst the Duchy are currently proposing a level of provision significantly beyond that required by the S106 agreement if regard is had to what would have been required it is considered that the minimum standard should be set at 1800 sq m and 18 pieces of play equipment. That would result in a similar level of provision as the requirements currently in the S106 agreement but in a single location.

14.2.6 Currently the requirement is that the first LEAP is provided by the 250th occupation, the Neap by the 450th occupation and the second LEAP by the 750th occupation. The proposal sought by officers is that the combined area of provision at the Great Field would be provided by the 500th occupation and therefore the total overall provision would be brought forward in the phasing of the development. This however remains to be further discussed with the applicant as part of the drafting of the deed of variation to the S106 agreement and the trigger for provision may therefore yet change.

14.2.7 It is considered that given the above the proposed modifications to the S106 agreement in respect of the NEAP and LEAPs would have an acceptable impact on community facility provision within Poundbury.

14.3 Provision of Community Facilities and the Creation of a Mixed Use Development – Community Hall

14.3.1 The S106 agreement requires that prior to the 600th dwelling being occupied a 300 seat community hall is to be provided. The Duchy is proposing that this requirement is deleted and that no further community hall be provided within Poundbury at this time.

14.3.2 Reserved matters approval has already been granted for the 300 seat community hall as part of application 1/D/12/000082 within which was included the Crown Hall site. No development has been commenced on the building of the hall and recently a revised reserved matters application has been submitted for the Crown Hall site proposing a scheme which does not include the community hall (WD/D/19/001012).

14.3.3 Within phase 1 of Poundbury the Brownsword Hall was provided which seats 110 people and within phase 2 of Poundbury there is The Quiet Space which seats 50 people. Both of these are available for hire for community use. Within phase 3 of Poundbury there is Damers First School. This has a hall with capacity for 150 people and it is understood to be available for occasional hire

outside of school hours. Within phase 3 there is also the Dorchester Community Church which on the ground floor can seat 180. It is available for hire to the community although it can only be hired by charities and charitable organisations. It is considered that there is already significant provision of community space within Poundbury. Within the wider Dorchester area there is the Corn Exchange in the town centre which seats 250 and also the Dorford Centre which has a capacity of 300 in its conference hall. The Theatre at Thomas Hardy School is only available outside of school hours but has theatre style seating for 470. There are other halls and community spaces within Dorchester although their capacity is less. If the Dorchester Maltings project were to proceed in the future it could provide theatre style seating for approximately 450 people in a central location within Dorchester.

14.3.4 The Duchy of Cornwall held a public consultation event on 1st May 2018 within a space called The Jubilee Hall which is adjacent to Queen Mothers Square in Poundbury. At that time the Duchy were considering the possibility of the Jubilee Hall (approximately 100 – 120 seated) being a community hall instead of the 300 seat community hall in the S106 agreement. The Duchy have submitted details with this current application that they received 120 pieces of feedback from residents, businesses and community groups. The Duchy interpreted the feedback and advised that:

- Respondents indicated that Poundbury would be better served by a smaller, more flexible hall and community space.
- Given its flexible layout and location, it makes more sense to develop Jubilee Hall than create another large community hall.
- There was no overarching “stand out” suggestion for how Jubilee Hall should be used by the community.
- Respondents wanted reassurance over who would manage and run Jubilee Hall and the preference was for a company or commercial enterprise to take ownership and maintain its viability.
- The feedback indicated there is not a requirement for a new 300 seat community hall in Poundbury. Existing large venues are already available to hire around Dorchester.

14.3.5 The Duchy state in their application that they do not wish to establish a venue which:

- Is not considered necessary by local residents.
- Could adversely compete with existing provisions (especially the Brownsword Hall)
- Is very unlikely to be sustainable and thereby would become increasingly unattractive and at risk of closure.

14.3.6 The Duchy still intends to provide the Jubilee Hall for community events (a planning application would be required for change of use) should they be able to

identify a suitable operator to manage the facility. They would like to be able to provide for occasional and varied activities at the Jubilee Hall which would not compete with the Brownsword Hall. However they are not proposing the variation of the S106 agreement to include Jubilee Hall as part of this application. They would only put forward Jubilee Hall as a community space if they considered there to be the need and they had a suitable operator to manage the facility. There is therefore no certainty that the proposal will come to fruition in the future.

14.3.7 There have only been two sets of comments made on the proposal to delete the requirement for a 300 seat hall. The first are from the Town Council who do not object to the other proposed changes to the S106 agreement and in fact support in principle not providing a 300 seat community hall. However, they consider that the Jubilee Hall can not be considered to be a direct alternative to a 300 seat hall by virtue of its size. They also considered that the applicant would be financially advantaged by not providing a 300 seat hall and therefore an associated financial obligation should be delivered.

14.3.8 The Town Council is correct in that Jubilee Hall would not provide a direct alternative and as outlined in 14.3.6 there would be nothing requiring the Duchy to use the Jubilee Hall as a community hall within the S106 agreement. In respect of the Town Council's comment about having a financial obligation instead of physical provision within Poundbury the Council's implementation team leader has clarified that there is no policy mechanism that would allow for the local planning authority to seek a specific financial contribution in lieu of the 300 seat hall. However the revised reserved matters application for commercial and residential development (now proposed are 2 commercial units and 25 apartments) at Crown Hall (which was previously proposed to be the hall, commercial space and 9 apartments) will have to make a financial contribution towards museums, libraries, education, transport, waste collection and waste disposal in accordance with the obligations in the S106 agreement associated with the outline planning permission.

14.3.9 The other comment received in respect of the proposals is from Dorchester Arts who believe, that from discussions with the residents of Poundbury, that they would prefer to see a significantly upgraded venue in the town centre rather than to have the hall at Poundbury built through obligation rather than necessity. The representation also raises concerns about the viability of a venue at Poundbury and that staging ticketed performances at such a venue might split audiences for existing or future venues in the town and in turn jeopardise their viability.

14.3.10 The current requirement for a 300 seat hall within the S106 agreement accords with the Poundbury Development Brief and Policy DOR1 of the adopted local plan which refers to development at Poundbury being in accordance with the development brief. However the Poundbury Development Brief is now 13 years old and Poundbury has developed a lot since then. There has been little

received in the way of representations to this application and the Duchy carried out their own consultation last year which seemed to generate very little in the way of support for the provision of a 300 seat hall in Poundbury. This would suggest that there is little public demand for the provision of the hall. In addition having regard to the provision of halls within Poundbury and the wider Dorchester area it is considered that there are existing alternative venues that could potentially meet any need that exists. Since the development brief was adopted the new Damers School has been built and the hall has been hired out to community groups such as the Poundbury Residents Association. In addition the Dorchester Community Hall has also been built at Poundbury (not planned for at the time of the development brief) and that has a hall that can be rented by charitable groups and organisations and is therefore an additional facility above and beyond that which was envisaged at the time of the development brief.

14.3.11 Given all of the above it is considered that there is a lack of justification for the continuation of the requirement for the provision of a 300 seat hall within Poundbury and that the S106 agreement should be modified accordingly.

14.4 Impact on visual amenity and the AONB:

14.4.1 Not providing the ball wall and the community hall would not in itself have any adverse visual impact on the AONB or visual amenity more generally. What is developed in place of the community hall will be considered through the revised reserved matters application and in that respect the local planning authority retains control over the visual impact of the development.

14.4.2 The provision of a combined play area (NEAP and LEAP) on the Great Field would result in a greater number and area of play equipment, as the Great Field would be accommodating the additional LEAP requirements. However the modified S106 agreement will require details of the proposed area and play equipment to be submitted and via that submission officers will have the ability to consider and if required seek amendments to the proposals in order to address the issue of visual amenity and the AONB.

15. Conclusion:

15.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact on the provision of community facilities in Poundbury and would not be detrimental to the creation of a mixed use sustainable development. Furthermore it is considered that the modification of the S106 agreement would not result in development that would adversely impact on the visual amenity of the AONB.

16. Recommendation:

16.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20th December 2011 to:

- Omit provision of a ball wall and 300 seat community hall.
- Provide one NEAP and one LEAP in a combined area on the Great Field with at least 18 pieces of play equipment and an area of 1800 sq m.
- Omit requirement for a second LEAP in phases 3 and 4 of the development.