

[WD/D/19/001920](#)

Clipper Teas LTD, Broadwindsor Road, Beaminster DT8 3PR
Modification of planning obligations on Section 106 agreement dated 16th January 2017 on planning approval WD/D/16/000654

Applicant name – Aster Homes Ltd

Case Officer – Emma Telford

Ward Member(s) – Cllr R Knox

The application is brought to committee at the request of the Head of Planning in accordance with section 151 of the Officer Scheme of Delegation.

1.0 Summary of Recommendation:

1.1 Delegate authority to the Head of Planning to modify the S106 agreement dated 16th January 2017, as varied by deeds of modification dated 28th November 2017 and 16th November 2018 to:

- Remove the local connection provisions relating to the shared ownership units

2.0 Reason for the recommendation:

2.1 It is considered that the proposed modification to the S106 agreement would have an acceptable impact. The modification would mean the removal of the local connection from the shared ownership units but the modification is required to be able to request more grant funding from Homes England to support the proposed 100% affordable housing scheme. The modification would not alter any of the proposed built form of the development.

3.0 Key planning issues

Issue	Conclusion
Provision of affordable housing	The proposed modification to the S106 agreement is considered acceptable.

4.0 Description of Site

4.1 The S106 agreement dated 16th January, as varied by deeds of modification dated 28th November 2017 and 16th November 2018 relates to the site at Clipper Teas Ltd, Broadwindsor Road Industrial Estate, Beaminster DT8 3PR. The agreement is associated with the hybrid application WD/D/16/000654 and the subsequent variation of condition application WD/D/17/000779 which consisted of a full application to erect a factory extension for Clipper Teas and an outline application for the demolition of the existing buildings on the central and northern

sites and the development of up to 45 homes, including affordable housing. The subsequent reserved matters was for the erection of 38 dwellings.

4.2 The site is located within the defined development boundary (DDB) of Beaminster and within the designated Area of Outstanding Natural Beauty. The factory extension which was covered by the full application has been built. A reserved matters application for the residential units has been submitted and granted.

5.0 Description of Proposal

5.1 This application seeks to modify the S106 agreement by removing the local connection provisions which relate to the shared ownership units.

6.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
WD/D/16/000654	Full planning application to erect factory extension for Clipper Teas to consolidate their existing production, storage, and distribution at the south site. Outline application for the demolition of the existing building on the central and north sites and the development of up to 45 homes, including affordable housing.	Approved	16/01/2017
WD/D/17/000779	Full planning application to erect factory extension for Clipper Teas to consolidate their existing production, storage, and distribution at the south site. Outline application for the demolition of the existing building on the central and north sites and the development of up to 45 homes, including affordable housing – variation of condition 1 to allow amendments to approved factory building.	Approved	14/12/2017
WD/D/18/002592	Application for approval reserved matters of access, appearance, landscaping, layout and scale of outline planning permission WD/D/16/000654 for the erection of 38 dwellings.	Approved	15/04/2019

7.0 Relevant Constraints

Within settlement limit for Beaminster

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)*

Right of Way

Key Employment Site

8.0 Consultations

All consultee responses can be viewed in full on the website.

Beaminster Town Council – *Recommend refusal of the modification to remove the local connection in respect of Shared Ownership units.*

Beaminster Town Council welcomed affordable/social housing and were in agreement with 100% of the development being affordable however to be able to make an informed judgement as to whether the proposed modification would be detrimental to Beaminster and surrounding parishes members felt more information with regard to the % of the total 45 units that were planned for shared ownership and evidence to suggest the implied lack of local need for these type of units.

Housing Enabling Team Leader - *The reason that Aster are seeking to remove the local connection clauses on the shared ownership units is that Homes England will not allocate any grant to shared ownership homes with local connection restrictions.*

The funding approach taken by Homes England was clarified in updated supplementary information to the Shared Ownership and Affordable Housing Programme 2016 – 2021, updated in 2017, which stated “The 2016 to 21 Prospectus notes, at paragraph 19, that the Government has removed restrictions on access to shared ownership: ‘outside London, anyone with a household income of less than £80,000 is now eligible, and there are no nationally or locally defined prioritisation criteria (excepting a prioritisation for current and former members of the British Armed Forces). Homes funded by the SOAHP 2016 to 2021 must be marketed in accordance with the new position’. We will not, therefore, fund shared ownership homes where additional prioritisation or eligibility criteria are applied, for example via a Section 106 agreement. Government wishes to offer purchasers and mortgage lenders the benefits of a standard, well understood product.”

This does not apply to rented units. In order to make this site viable as an affordable housing scheme Aster will need to attract grant on all of the units. Homes England have confirmed that they are supportive of providing grant to a 100% affordable housing development on this site.

Agreeing to remove the local connection restrictions on the shared ownership homes will mean the site delivers an all affordable scheme, mainly providing shared ownership homes. There are a large number of people who are struggling to access home ownership and developing these homes will help young people stay in the area which will assist in the long term sustainability of the town. Not agreeing to these changes mean that is likely that only 35% of this site would be developed as affordable homes.

Aster have assured The Council that they will market homes to local people in the first instance and will work with our Opening Doors Programme to promote these.

9.0 Representations

9.1 No comments received at the time of report writing.

10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan

HOUS1 – Affordable Housing

National Planning Policy Framework

4. Decision-making
5. Delivering a sufficient supply of homes

Other material considerations

- None of relevance.

11.0 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.

12.0 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.

13.0 Financial benefits

13.1 This application is not considered to alter the financial benefits of the development.

14.0 Planning Assessment

Provision of Affordable Housing

14.1 This application seeks to modify the S106 agreement by removing the local connection provisions which relate to the shared ownership units. The Housing Enabling Team Leader was consulted on the application and set out that Homes England will not allocate any grant to shared ownership homes with local connection restrictions. The funding approach taken by Homes England was clarified in updated supplementary information to the Shared Ownership and Affordable Housing Programme 2016 – 2021, updated in 2017, which stated “The 2016 to 21 *Prospectus* notes, at paragraph 20, that the Government has removed restrictions on access to shared ownership: ‘outside London, anyone with a household income of less than £80,000 is now eligible, and there are no nationally or locally defined prioritisation criteria (excepting a prioritisation for current and former members of the British Armed Forces). Homes funded by the SOAHP 2016 to 2021 must be marketed in accordance with the new position’. We will not, therefore, fund shared ownership homes where additional prioritisation or eligibility criteria are applied, for example via a Section 106 agreement. Government wishes to offer purchasers and mortgage lenders the benefits of a standard, well-understood product.” This does not apply to rented units.

14.2 The Housing Enabling Team Leader set out that in order to make this site viable as an affordable housing scheme a grant would be required on all of the units and that Homes England have confirmed that they are supportive of providing a grant to a 100% affordable housing development on this site.

14.3 It has been set out as part of the application that the removal of the local connection restrictions on the shared ownership homes would mean the provision of a 100% affordable scheme. However this cannot be controlled through planning. In order to receive the Homes England grant the development would be required to be 100% affordable. If the 100% affordable scheme did not come forward the scheme would still require the 35% affordable which equates to 13 affordable units out of the 38 (plus a financial contribution). So the result of this application were it to be approved and the 100% affordable scheme did not come forward would be the loss of the local connection on 4 affordable units.

14.4 Given the above the proposed removal of the local connection from the shared ownership units is considered acceptable as it could result in an entirely affordable scheme and not just the 35% provision originally proposed. Also if the 100% affordable scheme did not come forward it would only result in the loss of the local connection clause on 4 affordable units (shared ownership units).

15.0 Conclusion

15.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact and the modification does not alter the built form of the development.

16.0 Recommendation

16.1 Delegate authority to the Head of Planning to modify the S106 agreement dated 16th January 2017, as varied by deeds of modification dated 28th November 2017 and 16th November 2018 to:

- Remove the local connection provisions relating to the shared ownership units.