

<b>Application Number:</b>	P/MPO/2022/02469
<b>Webpage:</b>	<a href="https://www.dorsetcouncil.gov.uk/planning-application/P/MPO/2022/02469">Planning application: P/MPO/2022/02469 - dorsetforyou.com (dorsetcouncil.gov.uk)</a>
<b>Site address:</b>	Land at Ringwood Road Alderholt
<b>Proposal:</b>	Modify a Planning Obligation (dated 10 October 2017) for planning permission 3/16/1446/OUT (“ <i>Outline planning permission for the demolition of The Hawthorns former horticultural nursery and bungalow and erection of up to 60 dwellings (including up to 50% affordable housing), introduction of structural planting and landscaping, informal public open space, surface water flood mitigation and attenuation, primary vehicular access off Ringwood Road, pedestrian access off Broomfield Drive and associated ancillary works. All matters to be reserved, with the exception of the site access points</i> ”) to: reduce affordable housing provision from 50% to 15% (as 7 Affordable Rent homes); secure a Viability Review; secure a Biodiversity Compensation Payment; and secure the provision of Suitable Alternative Natural Greenspace (SANG). (Description amended 10 Feb 2023).
<b>Applicant name:</b>	Pennyfarthing Construction Ltd
<b>Case Officer:</b>	Naomi Shinkins
<b>Ward Member(s):</b>	Cllr Tooke

**1.0** The application is being considered by the Planning Committee as requested by the Head of Service.

**2.0 Summary of recommendation:**

**To grant the reduction in affordable housing from 50% to 15% and add provisions to secure biodiversity compensation payment and SANG provisions.**

**3.0 Reason for the recommendation:**

- It has been demonstrated that a maximum of 15% affordable housing provision is viable.
- Biodiversity compensation and SANG provisions are required to be secured by legal agreement.

#### 4.0 Key planning issues

Issue	Conclusion
Impact on viability of the development	It has been demonstrated that a maximum of 15% affordable housing provision is viable.
Biodiversity compensation	Required to be secured by legal agreement
SANG provisions	Required to be secured by legal agreement

#### 5.0 Description of Site and Site History

- 5.1 The site is a 3.2ha, irregular-shaped area of land located to the south of Alderholt. The site mainly comprises open land, some of which was formerly in use as a horticultural nursery.
- 5.2 The site's north-western boundaries lie adjacent to residential properties located off Ringwood Road, Broomfield Drive, and Fern Close. The north-eastern boundary adjoins land forming part of the Alderholt Recreation Ground. The south-eastern boundary lies adjacent to Alderholt Nursery, whilst the south-western boundary runs alongside Ringwood Road. Residential properties are located on the opposite side of Ringwood Road.
- 5.3 The site is located beyond the development limits of Alderholt and is located within 5km of protected heathland.
- 5.4 Outline permission was granted at appeal in 2018 for the following development:
- Outline planning permission for the demolition of The Hawthorns former horticultural nursery and bungalow and erection of up to 45 dwellings (net 44) (including up to 50% affordable housing), introduction of structural planting and landscaping, informal public open space, surface water flood mitigation and attenuation, primary vehicular access off Ringwood Road, pedestrian access off Broomfield Drive and associated ancillary works. All matters to be reserved, with the exception of the site access points.*
- 5.5 A reserved matters application was submitted in 2019 and is still under consideration due to concerns regarding heathland mitigation and nutrient neutrality, which the applicant is actively addressing.
- 5.6 As a result of heathland mitigation concerns, application 3/20/1732/FUL as follows has been submitted and secured by legal agreement. The application was approved in January 2023:

*Use of High Wood as a Suitable Alternative Natural Greenspace (SANG)*

## 6.0 Description of Amendment

- 6.1 The applicant is seeking to reduce the obligation in the Section 106 legal agreement attached to the accompanying planning permission to reduce the affordable housing provision on the basis that 50% affordable housing would render the proposal as unviable.
- 6.2 Further to the original permission allowed at appeal, a biodiversity payment is now required for the loss of hedging which needs to be secured by legal agreement.
- 6.3 Further to the approval of the SANG under PA 3/20/1732/FUL, SANG provisions associated with the residential development will be required to be secured by legal agreement.

## 7.0 Relevant Planning History

App No	Proposal	Decision	Date
3/16/1446/OUT	Outline planning permission for the demolition of The Hawthorns former horticultural nursery and bungalow and erection of up to 60 dwellings (including up to 50% affordable housing), introduction of structural planting and landscaping, informal public open space, surface water flood mitigation and attenuation, primary vehicular access off Ringwood Road, pedestrian access off Broomfield Drive and associated ancillary works. All matters to be reserved, with the exception of the site access points. [Officer note – permission granted for 45 dwellings at appeal (net 44 dwellings)]	Allowed at Appeal	6/11/2017
3/19/2077/RM	Reserved matters application pursuant to Outline Planning permission (Allowed at Appeal under application 3/16/1446/OUT) for the approval of the "appearance", "landscaping", "layout" (including internal access road, parking and turning areas) and "scale"	Under consideration	TBC

	for the development of Land North of Ringwood Road for 45 homes, landscaping and associated ancillary works		
3/20/1732/FUL	Use of High Wood as a Suitable Alternative Natural Greenspace (SANG)	Granted	Jan 2023

## 8.0 List of Constraints relevant to the application

Within Dorset Heathlands - 5km Heathland Buffer,;

Within River Avon Nutrient Catchment Area

## 9.0 Consultations

Summary only - all consultee responses can be viewed in full on the website.

### Consultees

#### 1. Alderholt Parish Council

- Objection
- Considers that the proposal will have a material adverse impact on local housing needs.
- If affordable housing is removed housing smaller, cheaper units should be provided.

#### 2. Dorset Council – Ward Member – Cllr Tooke

- Objection
- No merit to remove affordable housing

#### 3. District Valuation Service

- Considers that based on the details provided that the proposal is no longer viable if 50% affordable housing is included as part of the scheme and that 15% is viable.

### Representations received

A site notice was posted on the site on with an expiry date for consultation of 1<sup>st</sup> August 2022.

Total - Objections	Total - No Objections	Total - Comments
28	0	0

**Summary of Comments against:**

- General objections to any reduction in affordable housing agreed by an inspector at appeal
- Affordable housing is needed and necessary
- Affordable housing is needed for young families
- Some provision should be retained

**10.0 Relevant Policies**

**Development Plan:**

**Adopted Christchurch and East Dorset Local Plan:**

The following policies are considered to be relevant to this proposal:

- KS1 - Presumption in favour of sustainable development
- LN1- Size and Types of New Dwellings
- LN3 – Provision of Affordable Housing

**Other Material Considerations**

**Neighbourhood Plans**

Alderholt Neighbourhood Plan- In preparation – limited weight applied to decision making

**Emerging Local Plans:**

Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and

- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

### **Supplementary Planning Document/Guidance**

Supplementary Planning Documents/Guidance for East Dorset Area:

Affordable and Special Needs Housing and the Provision of Small Dwellings SPD

National Planning Policy Framework (NPPF) revised June 2021

Chapter 4: Decision-making

Chapter 5: Delivering a sufficient supply of homes

### **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 Public Sector Equalities Duty.

- The proposal does not include any physical changes to the previously approved scheme where this matter is considered.

### 13.0 Financial benefits

- None

### 14.0 Climate Implications

14.1 The proposal is to reduce the requirement for the provision of affordable housing. This will not have any climate implications.

### 15.0 Planning Assessment

#### Impact on viability of the development

15.1 Policy LN3 of the Core Strategy states that greenfield residential development resulting in a net increase of housing is to provide up to 50% of the residential units as affordable housing. This was secured in the Outline application allowed at appeal, PA 3/16/1446/OUT. The Reserved Matters application currently under consideration submitted a policy compliant scheme when submitted in 2019.

15.2 Policy LN3 also notes:

*Any Planning Application which on financial viability grounds proposes a lower level of affordable housing than is required by the Policy Percentage Requirements must be accompanied by clear and robust evidence that will be subject to verification.*

15.2 The applicant had initially sought to reduce the affordable housing provision in line with costs as negotiated with the DVS in 2021, where it was considered the provision could be reduced to 33% subject to an application. However, an application was never submitted to modify the planning obligation as such.

15.3 The applicant submitted this current application in 2022 and initially applied to fully remove the S106 legal agreement that requires the provision of 50% affordable housing units as part of the development approved at appeal, PA 3/16/1446/OUT. The applicant has undertaken a review of the viability of the scheme and a summary of changes provided includes:

- **Build costs** updated to current Building Cost Information Service (BCIS) standards. This appears to be an average 8.5% increase over previous values. The applicant has included the median build for Estate Housing Single Storey for the bungalows £1548, Estate Housing Detached £1587, Semi-detached 2 storey

£1355, Flats 2 storey £1518. The external works are again included at 20% of the build;

- **Revenue** has been updated to an average of £4,510sqm for the open market (which is all units in this latest appraisal). This is an average of 8% increase over previous open market value of £4173 sqm.
- **Abnormal build** elements have also increased by the 8.5% to reflect the same movement as the build costs above.
- **New Building Regs Parts L & F** are now included adding a further £229k, at an average £5090 a unit.
- **Phosphates** – the applicants have proposed a scheme required for phosphate mitigation and this has been included at £440k cost (£10k net per unit).
- **SANG Maintenance** has been increased to £1.05m. The applicant had originally anticipated the Council taking on the management of the SANG. However they now need to allow for an external management company for a period of 80 years. This will be secured with a s106 obligation.
- **SANG Land and Setting Out** is included at £545.3k. This is the same as previous with the land at £350k plus setting out at £180k (with the 8.5% increase added).

15.4 In terms of SANG costs - the applicant has advised in the submission documents regarding the application history for the site and the requirement for Suitable Alternative Natural Green Space (SANG) / Heathland Infrastructure Project (HIP), which was raised by Natural England in objection to the Reserved Matters application currently under consideration. This was not required when the Outline application was granted at appeal, where the net gain of houses is below the threshold for SANG of 50 new dwellings. Natural England are now requesting SANG/HIP provisions to address cumulative impact of development on heathland sites in the Alderholt area. The applicant has submitted an application for SANG/HIP land, which was approved in January 2023. As noted above, associated costs for maintaining the SANG/HIP form part of the reason for reducing the affordable housing provision.

15.5 In terms of phosphate costs - in a similar vein to mitigation for Dorset Heathlands, Natural England has objected to new residential development in Alderholt given uncertainty about the impact of additional development on the water quality of the River Avon through additional phosphates from sewage discharges. This was not an issue when the Outline application was approved and was raised as a concern at Reserved Matters stage. The applicant has sought to address this issue by providing mitigation in the neighbouring authority of New Forest District Council (NFDC), where credits can be secured for development in the Dorset Council area. As noted above, associated costs for securing phosphate credits form part of the reason for reducing the affordable housing provision.

15.6 Paragraph 58 of the NPPF notes:

*Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force ....*

15.7 Based on the above, Officers consider these particular circumstances justify the need for a viability assessment and given the circumstances the significant weight is given to the viability assessment submitted.

15.8 The Town and Country Planning Act 1990 allows for applications to modify planning obligations under section 106A. The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 sets out regulations for these applications and this application has followed due process in line with these regulations.

15.9 The Council has employed the District Valuation Service (DVS) to provide an independent assessment of the viability appraisal. The DVS is the specialist property arm of the Valuation Office Agency (VOA) who provide independent, impartial, valuation and professional property advice across the entire public sector, and where public money or public functions are involved.

15.10 The DVS has reviewed submitted information and is of the professional opinion a 15% affordable housing provision is viable as set out below.

15.11 A summary of the submitted viability information compared to the DVS assessment is as follows:

Appraisal Inputs	Agent	DVS Viability Review	Agreed (Y/N)
<b>Assessment Date</b>	28 June 2022	03 November 2022	-
<b>Scheme, Gross Internal Area, Site Area</b>	45 units 4,063m <sup>2</sup> NIA 5.57 ha	45 units 4,080.4m <sup>2</sup> GIA 5.2 ha	N
<b>Development Period</b>	34 months	34 months	Y
<b>Gross Development Value</b>	£18,323,045	£18,347,500	N
<b>Comprising:</b>			
<b>Market Housing GDV blended value rate</b>	£18,323,045 £4,390/m <sup>2</sup>	£18,347,500 £4,496.50/m <sup>2</sup>	N
<b>Affordable Housing GDV</b>	Not provided	N/A for 100% Open Market scheme	N
<b>CIL / Planning Policy / S.106 Totals</b>	CIL £372,336 S106 £1,821,645	CIL £372,336 S106 £1,821,645	Y
<b>Total Development Cost (excludes policy; land and fees; profit)</b>	£8,626,747 £2,123/m <sup>2</sup>	£8,591,486 £2,105/m <sup>2</sup>	N
<b>Comprising:</b>			
<b>Construction Cost Total and £/m<sup>2</sup></b>	£7,340,782 £1,808/m <sup>2</sup>	£6,284,028 £1,540/m <sup>2</sup>	N
<b>Externals Total and £/m<sup>2</sup></b>	Included above at 20%	£1,256,806 (20% of plot build costs)	N
<b>Abnormal Cost Total</b>	£1,285,695	£1,285,965	
<b>Professional Fees %</b>	8%	8%	Y
<b>Contingency %</b>	4%	4%	Y
<b>Finance Interest and Sum</b>	6%	6.5% debit 2% credit	N
<b>Other Fees</b>			
Marketing Fees	2.75%	2.75%	Y
Sales / Agency Fees	Incl in marketing	Incl in marketing	Y
Legal Fees	£650/unit	£650/unit	Y
Land Acquiring Costs	1.8%	1.8%	Y
<b>Profit Target %</b>	17.5%	17.5%	
<b>Benchmark Land Value</b>	£1,950,000	£1,500,000	N
<b>EUV</b>	Not provided	£638,894	N
<b>Premium</b>	N/A	2.35 x EUV	N
<b>Purchase Price</b>	£3,048,000	£3,048,000	Y
<b>Alternative Use Value</b>	Not provided.	Between £600,000 - £1,100,000	
<b>Residual Land Value</b>	£1,788,450	£1,994,961	N
<b>Viability Conclusion Full Policy Scheme</b>	Not viable	Not viable	Y
<b>Deliverable Scheme</b>	100% Open Market scheme	15% Affordable Housing (7 units)	N

15.12 From the assessment provided by the DVS it is considered a 15% affordable housing provision is viable. This is given the difference in residual land value (RLV), where the RLV is the amount remaining once the gross development cost of a project is deducted from the gross development value.

15.13 Based on the assessment the following points are noted:

- The DVS has adopted a higher gross development value than the applicant. This is based on research carried out by the DVS which officers have reviewed and have agreed with.
- Build costs - The costs submitted by the applicant are based on rates that have been previously agreed with DVS when reviewing the application in 2021, plus an uplift of approx. 8.5%. The DVS consider the approach of adding say 8.5% to the formerly agreed costs for the development is reasonable. Officers agree with this approach.
- Abnormal build costs - The costs submitted by the applicant are based on rates that have been previously agreed with DVS when reviewing the application in 2021, plus an uplift of approx. 8.5%. The DVS consider the approach of adding say 8.5% to the formerly agreed costs for the development is reasonable. Officers agree with this approach.
- New build regulations parts L & F - In addition, the applicant has included a sum of £229,021 (£5,089.35 per unit) to reflect additional costs to comply with Future Homes Standards (Building regs parts L & F). The DVS consider the approach reasonable. Officers agree with this approach.
- Phosphates – During the course of this application the applicant sought to increase the cost of phosphates from £440,000 to £675,000. Based on research carried out by the DVS the figure of £440,000 has been retained. Officers agree with this approach.
- SANG costs – a detailed breakdown of costs has been provided, which has been reviewed and researched in line with other SANG costs and considered acceptable. Officers agree with this approach.

15.14 Based on the findings of the DVS the applicant has agreed to provide a 15% affordable housing provision in the form of 2 x 2 bedroom apartments and 5 x 1 bedroom flats. This house size and type are considerations of the viability appraisal carried out and are what is considered to be financially viable. The proposed provision will be secured by a legal agreement. The applicant has confirmed they are willing to include a viability review clause as part of the legal agreement. This will ensure if there is a delay to the delivery of affordable housing that the contribution can be reviewed.

## **Proposed Mix**

- 15.15 Policy LN1 of the Core Strategy states that individual sites will be expected, in terms of the size and type of new market and affordable dwellings, to reflect the needs of the Strategic Housing Market Assessment (SHMA).
- 15.16 It is acknowledged 2 and 3 bed houses will no longer be provided as result of the reduced affordable housing provision. Given the small number of dwellings (7) and considering the management requirements for affordable housing, it is considered appropriate that the affordable housing provision be in the form of flats within one individual block within the site. This block of flats forms part of the original affordable housing provision and is being assessed under the associated Reserved Matters application. All flats will be Affordable Rented dwellings.
- 15.17 The DC Housing Officer has been consulted and advised that the proposed mix is acceptable based on management requirements for registered providers and there is a need for 1 and 2 bed Affordable Rented dwellings in the area.

### **Biodiversity and SANG Provisions**

- 15.18 As noted previously a biodiversity compensation payment and SANG provisions will also be added to the Deed of Variation. The Biodiversity compensation is to deal with an issue that will be considered as part of the reserved matters application and does not affect the viability of the site. The SANG provisions link the development site to the SANG and prevent occupancy prior to delivery of the SANG. SANG provisions also allow for a 'claw back' mechanism where the developer may pursue a SANG credit scheme for additional SANG capacity to recover some costs in acquiring and providing SANG. Any contributions received will be used by the Council for the provision of affordable housing. Any SANG Credit Scheme pursued shall not fetter the Council's discretion in the exercise of any of its statutory planning functions. Both the compensation payment and SANG provisions are required to be secured by legal agreement and are standalone additions.

### **Impact on the original planning balance**

- 15.19 The original permission 3/16/1446/OUT was judged to be acceptable in all respects subject to conditions by an inspector at appeal. The provision of affordable housing was to be secured in accordance with policy LN3.
- 15.20 Proposed development will not change other than the reduced affordable housing provision. Policy LN3 remains applicable and although the policy seeks affordable housing provision it also provides for situations where developers are able to fully justify proposals for housing schemes with lower levels of affordable housing.

### **16.0 Conclusion**

- 16.1 On the basis of the independent analysis of the viability statement submitted by the applicant, taking account of the details set out above, the approved development is not considered to be viable if 50% affordable housing needs to be provided. As advised by the DVS, 15% is viable and while the applicant does not agree with the

assessment, they have accepted this. Officers therefore consider that permission should be granted for the reduction of the affordable housing provision from 50% to 15% in the associated Section 106 legal agreement in accordance with LN 3 of the Local Plan.

## **17.0 Recommendation**

A) Grant permission subject to the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the legal services manager to amend planning obligations as follows:

- reduce affordable housing provision from 50% to 15%
- include biodiversity compensation payment of £16,445.50
- include SANG provisions
- increase the SANG Maintenance Contribution to £1.05m

OR

B) Refuse permission if the legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) is not completed by (6 months from the date of committee) or such extended time as agreed by the Head of Planning.

