

Application Number:	P/MPO/2023/06436
Webpage:	Planning application: P/MPO/2022/02469 - dorsetforyou.com (dorsetcouncil.gov.uk)
Site address:	Land at Ringwood Road Alderholt
Proposal:	Application to modify S106 dated 1 October 2017 (variation 10 July 2023) to planning approval 3/16/1446/OUT AND 3/19/2077/RM - To agree tenure of affordable homes as first homes tenure
Applicant name:	Pennyfarthing Construction Ltd
Case Officer:	Naomi Shinkins
Ward Member(s):	Cllr Tooke

1.0 The application is being considered by the Planning Committee as it results in the reduction of a community benefit as required by paragraph 151 of the Dorset Council Constitution.

2.0 Summary of recommendation:

To grant the change of tenure from affordable to rent homes to first homes.

3.0 Reason for the recommendation:

- It has been demonstrated that it has not been possible to secure a registered housing provider to undertake the approved affordable housing units.
- As a result of the above, it is considered acceptable in this specific instance to amend the tenure to first homes, where first homes are a form of affordable housing.
- Recovering the difference in viability calculations is already secured under the viability review clause in the existing legal agreement.

4.0 Key planning issues

Issue	Conclusion
Loss of affordable to rent homes	It has been demonstrated that no registered provider is willing to take on the approved affordable to rent homes. First homes defined by the government as an affordable housing tenure and are considered a suitable alternative in this specific instance.

Impact on viability of the development	Recovering the difference in viability calculations is already secured under the viability review clause in the existing legal agreement.
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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 was approved in 2023 once concerns regarding heathland mitigation and nutrient neutrality were addressed.
- 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)*
- 5.7 An application to amend the affordable housing provision was approved by committee in February 2023 as follows:

Modify a Planning Obligation (dated 10 October 2017) for planning permission 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”) 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).

6.0 Description of Amendment

- 6.1 The applicant is seeking to change the affordable housing obligations in the Section 106 legal agreement attached to the accompanying planning permission to change approved affordable to rent units to ‘first homes’
- 6.2 No other changes are proposed.

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
3/20/1732/FUL	Use of High Wood as a Suitable Alternative Natural Greenspace (SANG)	Granted	Jan 2023

P/MPO/2022/02469	<p>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).</p>	Granted	July 2023
3/19/2077/RM	<p>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" for the development of Land North of Ringwood Road for 45 homes, landscaping and associated ancillary works</p>	Granted	July 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

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

Consultees

1. Alderholt Parish Council

- No objection.
- But the Parish Council are dismayed at this outcome as it is 2 and 3 bed family homes that are required and these have been lost to Alderholt through the whole planning process on this site and others.

2. Dorset Council – Ward Member – Cllr Tooke

- No response.

3. Dorset Council Housing Team

- No objection.
- Due to the lack of uptake from Registered Providers on the affordable housing the enabling team have been in discussion with Pennyfarthing Homes about the tenure of the affordable units and supports this application to modify the S106 to provide first homes as the tenure for the affordable housing. Delivery of 7 of the homes at Oakwood Grove as First Homes will make an important contribution to the supply of affordable homes in the area.

Representations received

4 site notices were posted on and around the site boundary with an expiry date for consultation of 9 November 2023.

No third party representations were received.

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 change the approved tenure only. This will not have any climate implications.

15.0 Planning Assessment

Change of tenure

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.

15.2 A Section 106 Agreement attached to the Outline planning application (reference 3/16/1446/OUT) required the provision of 50% affordable housing, which equates to a total of 22 dwellings. However, in February 2023, an application to modify the affordable housing provision to 15% (7 units) (PA - P/MPO/2022/02469) was considered by the Eastern Area Planning Committee. Reasons for reducing the affordable housing contribution included increased build costs; additional costs in relation to new building regulation requirements; and additional costs in relation to

the required heathland and phosphate mitigation. The application was given a resolution to grant, subject to the completion of a S106 legal agreement and was approved in July 2023.

15.3 The 15% affordable housing provision is in the form of 2 x 2 bedroom apartments and 5 x 1 bedroom flats. The viability appraisal for planning application P/MPO/2022/02469 identified this house type and size to be financially viable.

15.4 As set out in planning application P/MPO/2022/02469, it is acknowledged 2 and 3 bed affordable houses will no longer be provided as a result of the reduced affordable housing provision. Given the small number of affordable dwellings to be delivered as part of this scheme (7) and taking into account the management requirements for affordable housing, it was considered appropriate and acceptable in this instance that the affordable housing provision be in the form of flats accommodated within one individual block. This block of flats is consistent with the original affordable housing provision proposed under the original Outline application. All flats within the block were proposed to be Affordable Rented dwellings.

15.5 Again, as set out and approved under P/MPO/2022/02469, the DC Housing Officer was consulted and advised that the proposed mix is acceptable based on management requirements for registered providers. The Housing Team also confirmed that there is a need for 1 and 2 bed Affordable Rented dwellings in the area.

15.6 Further to the approval of PA 3/19/2077/RM, the developer has sought to secure a registered provider.

15.7 8 registered providers were approached and the following responses received:

Registered Provider	Response
Vivid Homes	Outside of operating area
Abri	No further S106 homes required
Aster	Too small
East Boro Housing Trust	Feel flats would be too hard to let in this area
Legal and General	Too small
Magna	Would not be competitive in the market, as Magna has chosen to limit its rental homes to aid affordability of its customers to social rent only
Places for People	Priority is for in year (23/24) delivery
Sovereign	Too small, feel flats would be too hard to let
Stonewall	Too small

15.8 The Housing Team has been consulted on the above responses and is satisfied that all avenues to secure a registered provider have been exhausted. The applicant now proposes that affordable for rent homes now become First Homes, which can be

delivered and sold by the developer. No registered provider is required as they are discounted market sale houses.

15.9 The Government defines 'first homes' as follows ([First Homes - GOV.UK \(www.gov.uk\)](https://www.gov.uk)) - Paragraph: 001 Reference ID: 70-001-20210524 :

First Homes are a specific kind of discounted market sale housing and should be considered to meet the definition of 'affordable housing' for planning purposes. Specifically, First Homes are discounted market sale units which:

a) must be discounted by a minimum of 30% against the market value;

b) are sold to a person or persons meeting the First Homes eligibility criteria (see below);

c) on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and,

d) after the discount has been applied, the first sale must be at a price no higher than £250,000 (or £420,000 in Greater London).

First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations.

[First Homes Eligibility Criteria - A purchaser (or, if a joint purchase, all the purchasers) of a First Home should be a first-time buyer as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers. Purchasers of First Homes, whether individuals, couples or group purchasers, should have a combined annual household income not exceeding £80,000 (or £90,000 in Greater London) in the tax year immediately preceding the year of purchase. A purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic law) to fund a minimum of 50% of the discounted purchase price. These national standard criteria should also apply at all future sales of a First Home.]

In relation to securing the tenure the government requires the following:

In addition, to qualify as a First Home, there should be a section 106 agreement securing the necessary restrictions on the use and sale of the property, and a legal restriction on the title of the property to ensure that these restrictions are applied to the property at each future sale, as described in [What is the legal mechanism to ensure that the discount is passed on to all future purchasers?](#). The price cap of £250,000 (or £420,000 in Greater London), however, applies only to the first sale and not to any subsequent sales of any given First Home.

Homes meeting the above minimum criteria can be sold as First Homes and should be considered to meet the definition of 'affordable housing' for planning purposes. A developer should be able to show that the homes they intend to sell as First Homes will meet the above criteria.

Paragraph: 002 Reference ID: 70-002-20210524

- 15.10 Based on the above, it has been demonstrated that it has not been possible to secure a registered housing provider to undertake the approved affordable housing units. As a result it is considered acceptable in this specific instance to amend the tenure to First Homes, where First Homes are a form of affordable housing (as defined by the Government, set out above) but would be delivered and sold by the developer with no management required by a registered provider.

Impact on viability of the development

- 15.11 While First Homes are considered to be a form of affordable housing tenure, it is acknowledged that the developer is likely to make more profit on First Homes than affordable to rent homes.
- 15.12 The reduction to 15% affordable to rent dwellings was agreed on the basis of a viability assessment, which was assessed by the District Valuer (DV). The provision of First Homes in lieu of affordable to rent homes will have an impact on viability.
- 15.13 However, a viability review clause was secured under the associated legal agreement for PA P/MPO/2022/02469 where a viability review is required on the occupation of the 40th dwelling (45 houses are being provided on site). Where a surplus arises then the developer shall pay the additional affordable housing contribution prior to the occupation of the 43rd dwelling.
- 15.14 On the basis that the viability review clause will capture any surplus as a result of the change of tenure, it is considered reasonable to deal with viability matters based on the already secured viability review requirements.

Impact on the original planning balance

- 15.15 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.
- 15.16 The proposed change of tenure will not change other planning matters other than the amended affordable housing tenure. 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 it has been demonstrated that it has not been possible to secure a registered housing provider to undertake the approved affordable housing units and that viability matters are secured under the existing viability review requirements, it is considered acceptable in this specific instance to amend the affordable housing tenure to first homes.
- 16.2 Officers therefore consider that permission should be granted for the change of tenure from affordable to rent to first homes 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:

- replace affordable for rent units with first homes

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.

