

Application Number:	P/MPO/2024/02946
Webpage:	Planning application search and comment - Dorset Council
Site address:	Lands East of New Road West Parley Dorset
Proposal:	<p>Application to modify legal agreement dated 18 February 2021 (PA 3/17/3609/OUT) variation of S106 to 'swap' the order of SANG delivery, requiring the following changes:</p> <ul style="list-style-type: none">- Swap the references to SANG A and B on Plan 1- Reverse references to SANG A and B in the definitions (where there is a distinction in the wording between the two types of SANG)- Reverse the Successors in Title paragraphs 7.3.3 and 7.3.4- Reverse the definitions in Schedule 6 (including the certificate/practical completion and step-in maintenance contribution references)- Swap S6 Parts 2 and 3 and reverse the SANG references therein.- Mechanism inserted to secure the 2ha of temporary grassland is planted across the old SANG A (what will be SANG B).
Applicant name:	Bellway Homes
Case Officer:	Naomi Shinkins
Ward Member(s):	Cllr Parry

1.0 The application is being considered by the Planning Committee as requested by the Head of Service given the Parish Council and third party concerns.

2.0 Summary of recommendation:

To grant the change, swapping the delivery of SANG A and SANG B

3.0 Reason for the recommendation:

- There is no material planning reason the current SANG B (eastern) cannot be delivered in advance of SANG A (western).

- The provision of the current SANG B first will provide a larger, better quality SANG available to public sooner.
- Appropriate access arrangements are proposed and can be secured via legal agreement via the current SANG A.
- Natural England and The Dorset Council Natural Environment Team (NET) have raised no objection to the proposed change.

4.0 Key planning issues

Issue	Conclusion
Impact on Dorset Heathland	Acceptable – no changes to the overall SANG area and design. The proposed change would result in the larger, better quality SANG being delivered first providing a larger space not adjacent to a construction site for the wider community.
Impact on neighbours	<p>Acceptable – while SANG A provides some screening to the adjacent construction site this is limited and the majority of screening is provided by existing vegetation to neighbouring boundaries, which is retained under the approved development.</p> <p>Prolonged outlook of the adjacent construction site would not warrant refusal of this application.</p>
Impact on local amenity	Acceptable- the trigger for the allotment provision remains unchanged. The provision of the local equipped area of play will be delayed but will be provided by July 2025, which can be secured by legal agreement.

5.0 Description of Site and Site History

- 5.1 The SANG lands in question form part of the site allocated for development by Christchurch and East Dorset Local Plan Part 1 – Core Strategy April 2014 Local Plan Policy FWP6.
- 5.2 Outline planning permission was approved under PA 3/17/3609/OUT for up to 386 dwellings, up to 1000sqm of retail units; up to 900sqm of offices and up to 2200sqm of food store; together with accesses, a link road and associated highway works,

public open space including Suitable Alternative Natural Greenspace (SANG), allotments, landscaping and associated works, with all matters reserved apart from the access junctions with New Road and Church Road, and the link road between Christchurch Road and New Road.

- 5.3 A separate but linked application for the change of use of agricultural land to SANG was also granted permission on 18th February 2021 under PA 3/17/3610/COU for almost 16ha of land on the east side of Church Lane.
- 5.4 As approved SANG A is the SANG adjacent to the development to the west of Church Lane and SANG B is the SANG land approved separately under PA 3/17/3610/COU to the east of Church Lane as shown in the image on the following page.



Illustrative plan showing SANG A adjacent to the development and SANG B to the east of Church Lane

- 5.5 As approved SANG A is required to be delivered prior to the occupation of the first dwellings and SANG B to be delivered after, in accordance with timescales in the approved SANG management plan.
- 5.4 The quantitative level of SANG provision exceeds Natural England's guidance in mitigating impacts on the Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation (about 22ha proposed to be provided across the two SANGs, policy guidance requires approx 7.4ha for this development to be compliant with Policy ME2 and the guidelines at Appendix 5 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014).

6.0 Description of Amendment

- 6.1 The applicant is seeking to 'swap' the delivery of the approved 'SANG A' (land adjacent to the development and to the west of Church Lane) with approved 'SANG B' (land east of Church Lane).
- 6.2 The following amendments to the s106 legal agreement are required to achieve this change:
- Swap the references to SANG A and B on Plan 1
 - Reverse references to SANG A and B in the definitions (where there is a distinction in the wording between the two types of SANG)
 - Reverse the Successors in Title paragraphs 7.3.3 and 7.3.4
 - Reverse the definitions in Schedule 6 (including the certificate/practical completion and step-in maintenance contribution references)
 - Swap S6 Parts 2 and 3 and reverse the SANG references therein.
 - Mechanism inserted to secure the 2ha of temporary grassland is planted across the old SANG A (what will be SANG B).
- 6.3 Swapping the delivery means the SANG to the east of Church Lane will be provided first and the SANG adjacent to the development on the west of Church Lane will be delivered in line with timescales to be approved as part of an updated management plan.

7.0 Relevant Planning History

- Outline planning permission was approved under PA 3/17/3609/OUT for up to 386 dwellings, up to 1000sqm of retail units; up to 900sqm of offices and up to 2200sqm of food store; together with accesses, a link road and associated highway works, public open space including Suitable Alternative Natural Greenspace (SANG), allotments, landscaping and associated works, with all matters reserved apart from the access junctions with New Road and Church Road, and the link road between Christchurch Road and New Road.
- Bellway Homes Ltd obtained Reserved Matters Approval for two phases of development. Reserved matters approval P/RES/2022/03505 dated 2nd November 2022 for Phase 1 of the development comprising 238 dwellings, together with related public open space, SANG (SANG A), allotments and landscaping. This was followed by Reserved matters approval P/RES/2022/08041 dated 5th May 2023 for Phase 2 of the development comprising 148 dwellings, together with related public open space, internal access, parking and landscaping.
- A non-material amendment to relocate a substation within a parking courtyard and associated amendment to the Block F access was approved 21 June 2023 (Council reference P/NMA/2023/02708).
- SANG A and B Management Plans have been submitted pursuant to the s106 Agreement on 7th March 2023 and 23rd July 2024 respectively but no decision has been received to date [Officer note – updated management plans will be required if this application is approved].
- The SANG B specification, required before development takes place, pursuant to condition 4 and the Construction Management Plan, pursuant to condition 5 of the separate change of use planning permission was approved 13th February 2024 (PA 3/17/3610/COU). This was subject to signage and leafletting details and approval of promotional material, to raise local awareness, in the case of the former condition.

8.0 List of Constraints relevant to the application

Within Dorset Heathlands - 5km Heathland Buffer

9.0 Consultations

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

Consultees

1. Natural England

- No objection
- Confirm that the proposed modifications are acceptable to Natural England subject to:
 - Secure 2ha area on SANG A as an entrance to SANG B
 - Secure a specified date by when the 2ha area will be available for use
 - Secure agreement about (a date) when the first full area of SANG will be available.
- Confirms no objection to occupations of up to 48 dwellings prior to SANG delivery as per letter dated 19 November 2024.

2. Dorset Council Natural Environment Team (NET)

- No objection.
- Proposal to swap SANG A and SANG B delivery acceptable subject to:
 - the inspection of SANG B works to a standard where it is suitable for use by the end of January 2025.
 - SANG B being partially delivered by January 2025 and fully delivered as the final arisings are mobilised to complete the approved SANG B bund from the early stages of the Phase 2 construction.
 - SANG A being delivered as detailed in the required SANG Management Plan.
 - payment of the Step-in contribution that is due to be paid and monitoring for this will begin when SANG B is open to the public.
 - promotional materials will be developed and distributed to occupied homes before the end of December 2024 and homes as they are occupied thereafter.
 - SANG land west of Church Lane and public open space would not have the development site compound or soil stockpiled on them and that only the required construction work and access as formally expected will take place.
 - SANG carparking will be provided by January 2025 to coincide with the opening of SANG B.

3. West Parley Parish Council

- Objection.
- Concern over future delivery of developer obligations and ongoing management of the SANG (additional concern over accessibility of the SANGs for the wider public)
- Concern over the future delivery, and potential loss, of the allotment provision.
- Concern over the damage to the whole wildlife space of the main development site. With no recovery of biodiversity; no softening of the site through vegetation; no provision onsite for the initial residents to enjoy open green space on their doorstep.
- Concern over the loss of the green 'buffer' to the rear boundaries of the properties along Church Lane; as the development progresses over a number of years.
- the proposed change of SANGs has led to the developers not keeping the site as tidy as they would otherwise; which can have a detrimental visual and mental effect for residents and neighbours who perceive to be on a building site and others.

4. Dorset Council – Ward Member

- No response.

Representations received

Site notices were posted on and around the site boundary with an expiry date for consultation of 27 June 2024.

Total - Objectors	Total - No Objections	Total - Comments
14	0	0

Comments received raising concerns as follows (summary only, full comments available online):

- Unclear what is proposed and why
- Impacts unclear
- Changes to the approved development which do not have planning permission

- Development should not have been allowed in the first place.
- Impact of prolonged construction
- Existing mounds of rubble need to be sorted out
- Large areas of land will be left in poor condition
- Delays delivery of the SANG
- Impacts negatively on the properties on Church Lane
- No timescale for completion or commitment to fences and mounds of earth removed, entrances pathways and planting etc.

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

ME2 – Dorset Heathlands

FWP6- East of New Road New Neighbourhood

Other Material Considerations

Neighbourhood Plans

None

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:

Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document

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 swap the delivery of the SANGs only. There are some environmental benefits for the wider community by delivering the larger SANG first.

15.0 Planning Assessment

‘Swapping’ SANG delivery

- 15.1 The applicant has advised it is necessary to deliver the approved SANG B first as the approved SANG A will have drainage plumbed into and through it, when the Phase 2 construction takes place, and is in part a soil store to reduce wider lorry movement impacts. The applicant also notes it will be running materials and drainage to the three Plots on Church Lane (Plots 384-386) from the building site, which will be completed later in the build programme for Phase 2, to avoid larger construction vehicles accessing via Church Lane. The applicant also considers that provision of the larger SANG B ahead of the smaller SANG A will deliver early, wider community benefits and more useable SANG land that meets the requirements as set out in the Dorset Heathlands Supplementary Planning Document (SPD).
- 15.2 The applicant also notes that provision of the narrower SANG A area along the east edge of the development first would leave it adjoining a construction zone when phase 2 is being delivered making less attractive to use.
- 15.3 General advice on SANG design in the Dorset Heathlands Planning Framework 2020-2025 SPD Appendix D notes:
- ‘8. It should be possible to complete a circular walk of 2.3-2.5km around the SANGs, and for larger SANGs a variety of circular walks.
 - 9. SANGs must be designed so that visitors are not deterred by safety concerns.
 - 10. SANGs should have good green infrastructure links with nearby developments to encourage use of the SANG...
 - 13. SANGs must be perceived as natural spaces without intrusive artificial structures, except in the immediate vicinity of car parks. Visually sensitive way-markers and some benches are acceptable.
 - 14. SANGs must aim to provide a variety of habitats for visitors to experience (e.g.

some of: woodland, scrub, grassland, heathland, wetland, open water).

15. Access within the SANG must be largely unrestricted with plenty of space provided where it is possible for dogs to exercise freely and safely off lead.

16. SANGs must be free from unpleasant visual, auditory or olfactory intrusions (e.g. derelict buildings, intrusive adjoining buildings, dumped materials, loud intermittent or continuous noise from traffic, industry, sports grounds, sewage treatment works, waste disposal facilities).'

- 15.4 The applicant has advised, were it practical to deliver SANG A first it would not meet these quality objectives until completion of the building works. Whereas SANG B can deliver both qualitative and quantitative objectives from day 1 of practical completion. It is acknowledged larger and better quality SANG in line with the SPD requirements noted above would be delivered first if the application is approved.
- 15.5 It is noted that the allotments secured by the legal agreement form part of SANG A. However the trigger for the delivery is prior to the occupation of the 386th (final) dwelling. Swapping SANG delivery will not impact this trigger.
- 15.6 A local equipped area for play (LEAP) is also secured by the legal agreement as part of the approved SANG A. The delivery of this will be delayed, however the applicant has agreed the LEAP can be segregated from the phase 2 construction and delivered by July 2025, which can be secured by legal agreement.

Impact on neighbouring amenity

- 15.7 Concerns have been raised that delivering SANG A later would negatively impact existing neighbours on Church Lane due to prolonged disturbance from construction, where the western SANG was considered to provide a buffer to the construction.
- 15.8 It is acknowledged the western SANG would provide some screening to the construction site, however the majority of screening is provided by vegetation close to existing properties, which is to be retained.
- 15.9 The western SANG is generally flat land with low level landscaping and sustainable urban drainage (SUDs) features. It is acknowledged that SANG A would improve the outlook from neighbouring properties during construction, however the screening capabilities are limited.
- 15.10 The residential development is approx 30m – 110m from existing neighbouring boundaries on Church Lane and construction is controlled by an approved construction management plan.

- 15.11 The later delivery of the western SANG would not warrant the refusal of this application based on the impact of neighbouring amenity.

Delivery Timescales

- 15.12 82 of the Phase 1 dwellings (Plots 1-4, 6-11, 18-26 & 104-166) have been commenced to date (of which 37 dwellings are affordable). Due to the current market forces the applicant has advised it is currently predicted that the remaining 304 homes will take about 3 years and 11 months to complete which will mean build completion in Summer 2028.
- 15.13 SANG B works have progressed in accordance with details approved by the recent discharge of conditions application. The vacant barn has been demolished, fencing and benches installed, and the shallow pond extended and formed. Mown paths, ground planting and extensive tree planting will follow in the next planting season between November 2024 and March 2025.
- 15.14 The SANG parking has been formed and would be available for public use from December 2024 once the area at the southern end of Phase 1 has been completed and is no longer a construction zone.
- 15.15 A 2 ha area of land in the western SANG by the SANG parking area will be delivered with the opening of the eastern SANG.
- 15.16 The applicant has advised that leafletting will be used to advise residents of the revised SANG delivery and access arrangements for the eastern SANG.
- 15.17 The above timescales have been discussed on site with Natural England and Dorset Council Natural Environment Team (DC NET) who have agreed with the above process.
- 15.18 Proposed timescales for the western SANG will be secured by a SANG management plan as required by condition of the original planning application and delivery of the eastern SANG and the 2 ha gateway on the western SANG will be secured by the revised deed of variation s106 agreement.
- 15.19 Officers are aware that some occupations have occurred on site, which is a breach of the current s106 legal agreement where the trigger for SANG delivery is prior to occupation of any dwelling. An enforcement case has been opened and the issue reviewed by planning officers, DC NET officers and Natural England. Based on the timescales set out above, it is not considered expedient to take legal action as harm has not arisen as confirmed by Natural England in their letter dated 19 November 2024. Natural England are satisfied the SANG can be delivered prior to the occupation of the 49th dwelling, where the threshold for a development to require a SANG is 50 dwellings as set out in the Dorset Heathlands Supplementary Planning

Document. Allowing the occupation of up to 48 dwellings facilitates the occupation of the 37 affordable housing units which have recently secured a registered provider. The proposed deed of variation to the legal agreement will need to amend the SANG delivery trigger to prior to the occupation of the 49th dwelling.

Third Party concerns

15.20 Concerns raised by the Parish Council have been addressed as follows:

Concern	Officer response
Concern over future delivery of developer obligations and ongoing management of the SANG (additional concern over accessibility of the SANGs for the wider public)	<p>Obligations are secured by legal agreement, ongoing management secured by a revised SANG management plan to be submitted and agreed with DC NET.</p> <p>Parking for SANG will be provided and a 2ha entrance area from the western SANG will be provided to access the eastern SANG.</p>
Concern over the future delivery, and potential loss, of the allotment provision.	Swapping of SANG delivery does not impact allotment delivery to be provided prior to the occupation of the final dwelling as secured by legal agreement.
Concern over the damage to the whole wildlife space of the main development site. With no recovery of biodiversity; no softening of the site through vegetation; no provision onsite for the initial residents to enjoy open green space on their doorstep.	<p>Currently not a wildlife area.</p> <p>SANG Management plan will ensure delivery timescales of the western SANG</p>
Concern over the loss of the green 'buffer' to the rear boundaries of the properties along Church Lane; as the development progresses over a number of years.	<p>Western SANG to be delivered with Phase 2 and controlled by SANG management plan.</p> <p>Impact on outlook noted but this is temporary and would not warrant the refusal of the application.</p>

<p>The proposed change of SANGs has led to the developers not keeping the site as tidy as they would otherwise; which can have a detrimental visual and mental effect for residents and neighbours who perceive to be on a building site and others.</p>	<p>Not a material consideration for this application. Approved development has a construction management plan which should be adhered to.</p>
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15.21 Neighbour concerns are addressed as follows:

Concerns	Officer Response
<p>Unclear what is proposed and why</p>	<p>The applicant submitted an additional cover letter explaining proposed changes and timescales to address this concern</p>
<p>Changes to the approved development which do not have planning permission</p>	<p>Not considered under this application</p>
<p>Development should not have been allowed in the first place.</p>	<p>Proposed development already approved - see site history above</p>
<p>Impact of prolonged construction</p>	<p>Western SANG to be delivered with Phase 2 and controlled by SANG management plan.</p> <p>Impact on outlook noted but this is temporary and would not warrant the refusal of the application.</p>
<p>Existing mounds of rubble need to be sorted out</p>	<p>Not relevant to this application</p>
<p>Delays delivery of the SANG</p>	<p>SANG B will be delivered earlier providing a larger and better quality SANG available to the wider public.</p>

Impacts negatively on the properties on Church Lane	Western SANG to be delivered with Phase 2 and controlled by SANG management plan. Impact on outlook noted but this is temporary and would not warrant the refusal of the application.
Large areas of land will be left in poor condition	Western SANG to be delivered with Phase 2 and controlled by SANG management plan.
No timescale for completion or commitment to fences and mounds of earth removed, entrances pathways and planting etc.	Timescales noted above

Impact on the original planning balance

15.22 The original permission was judged to be acceptable in all respects subject to conditions by planning committee. The proposed change of SANG delivery will not change the final delivery of the SANG as approved or other planning matters.

16.0 Conclusion

16.1 On the basis there are no material planning considerations why the eastern SANG (A) cannot be delivered before the western SANG (B) that would warrant refusal, it is considered acceptable in this specific instance to 'swap' the delivery of SANG A and SANG B.

16.2 Officers therefore consider that permission should be granted to 'swap' the delivery of SANG A and SANG B as set out above.

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:

- Swap the references to SANG A and B on Plan 1
- Reverse references to SANG A and B in the definitions (where there is a distinction in the wording between the two types of SANG)
- Reverse the Successors in Title paragraphs 7.3.3 and 7.3.4
- Reverse the definitions in Schedule 6 (including the certificate/practical completion and step-in maintenance contribution references)
- Swap S6 Parts 2 and 3 and reverse the SANG references therein.
- Mechanism inserted to secure the 2ha of temporary grassland is planted across the old SANG A (what will be SANG B).
- Secure delivery of local equipped area for play (LEAP) by July 2025.
- Amend SANG delivery trigger to prior to the occupation of the 49th dwelling.

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.