

Application Number:	P/MPO/2026/01652
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	West Of Shaftesbury Road At Land South Of Gillingham Shaftesbury Road Gillingham
Proposal:	Modification of S106 Deed of Variation dated 2nd April 2024 to remove Clause 2.8 under Schedule 2 which reads 'no more than 30% of the Intermediate Units shall be Discounted Market Units'
Applicant name:	Miss Rachel Ballam
Case Officer:	Kirsten Williams
Ward Member(s):	Cllr. Val Potheary, Cllr. Belinda Ridout, Cllr. Carl Woode

1. Reason application is going to committee:

It is proposed to reduce the number of shared ownership properties and increase the number of discount market units allowed through the legal agreement.

2. Summary of recommendation:

2.1 GRANT the modification of the agreement.

3. Reason for recommendation:

- Para 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise.
- There is not considered to be any significant reduction in community benefits.
- There are no material considerations which would warrant refusal of this application.

4. Key planning issues

Issue	Conclusion
Affordable Housing	All reasonable efforts have been made to secure a Registered Provider for Phase 3 but due to market conditions that has not been successful. The proposal to alter the S106 to remove the 30% cap on the intermediate unit portion (50%) of the required affordable housing and allow for additional Discount Market Units is considered an acceptable alternative as it ensures the total affordable provision is still provided, including the required portion of affordable rented units.

5. Description of site

- 5.1 The existing Deed of Variation covers the Ham Farm development, which benefits from Outline planning permission (2/2018/0036/OUT) for up to 961 dwellings and a new local centre (please see Section 7 planning history below).

- 5.2 The application site is the Gillingham Southern Extension Strategic Site Allocation as set out in the North Dorset Local Plan (Policy 21). Gillingham is located to the north of the county. It is recognised as one of the main towns in North Dorset and serves a wide catchment of surrounding villages and settlements.
- 5.3 The application site is specifically identified as part of 'Land to the South of Ham' under Policy 21 and is located to the southeast of Gillingham town, to the immediate south of Ham and the St Mary the Virgin Primary School. It comprises an area of open fields, divided by a series of mature trees and hedgerows.
- 5.4 The site has undulating topography and has a high point in the northwest of the site which falls away gradually in all directions to the site boundaries.
- 5.5 The site will have access from both New Road (B3092) to the west and Shaftesbury Road (B3081) to the east, via the Principal Street which has been granted separate planning permission (2/2020/0379/FUL) and is at the final stages of full completion.

6. Description of development

The site currently has Reserved Matters consent for 3 of 5 proposed phases.

Phase 1 provides a show home / sales area of 34 dwellings, in addition to 108 dwellings, including a total of 15 No. discount market units.

Phase 2 provides a total of 280 dwellings, including a total of 140 No. affordable homes with a 50/50 split between shared ownership and affordable rented tenures.

Phase 3 provides a total of 155 dwellings and currently provides a total of 31 No. affordable homes with a 30/70 split between shared ownership and affordable rented tenures.

7. Background and relevant planning history

2/2018/0036/OUT - Develop land by construction of an urban extension to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092).

The urban extension would comprise up to 961 dwellings. Up to 2,642 sq. m. in a new local centre providing retail, community, health and leisure uses, new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access. To include all ancillary works and associated infrastructure (Outline application to determine access only).

Decision: Granted Decision Date: 09/09/2021

2/2020/0379/FUL - Construction of a Principal Street, associated access, landscaping and infrastructure works at land to the East of New Road (B3092), Gillingham.

Decision: Granted Decision Date: 18/11/2020

P/RES/2023/00628 - Construct loop road and associated drainage to facilitate future reserved matters applications in line with grant of Outline Planning Permission No. 2/2018/0036/OUT.

Decision: Granted Decision Date: 08/03/2024

P/FUL/2022/07873 - Installation of a Sewage Pumping Station (SPS)

Decision: Granted Decision Date: 20/04/2024

[East of Junction between B3092 and Cole Street Lane]

P/RES/2023/02376 - Erect 34 No. dwellings (including show homes / sales area) and associated infrastructure including formal and informal public open space, following the grant of Outline Planning Permission No. 2/2018/0036/OUT. (Reserved Matters application to determine access, appearance, landscaping, layout and scale).

Decision: Granted Decision Date: 23/11/2023

[Ham Farm "Phase 1a" Reserved Matters application]

P/RES/2022/04960 - Erection of 108 dwellings and associated infrastructure including informal and formal public open space pursuant, (reserved matters application to determine access, appearance, landscaping, layout and scale) following the grant of outline planning permission 2/2018/0036/OUT.

Decision: Granted Decision Date: 05/07/2024

[Ham Farm "Phase 1b" Reserved Matters application]

P/RES/2022/07898 - Erection of 280 dwellings and associated parking, landscaping and infrastructure (reserved matters application to determine appearance, landscaping, layout and scale) following grant of outline planning permission 2/2018/0036/OUT).

Decision: Granted Decision Date: 04/06/2024

[Ham Farm "Phase 2" Reserved Matters application]

P/RES/2023/05868 - Erection of 155 dwellings and associated infrastructure - including informal and formal public open space. (Reserved matters application to determine access, appearance, landscaping, layout and scale following the grant of Outline planning permission 2/2018/0036/OUT).

Decision: Granted Decision Date: 11/12/2024

[Ham Farm "Phase 3" Reserved Matters application]

P/VOC/2025/01541 - Erection of 155 dwellings and associated infrastructure - including informal and formal public open space (with variation of conditions 2, 4 & 7 of planning permission P/RES/2023/05868 - to amend approved plans)

Decision: Granted Decision Date: 12/06/2025

[Ham Farm "Phase 3" Variation of Conditions application]

8. List of constraints

Agricultural Land Grade: 3/4 and Low likelihood of Best and Most Versatile (BMV) agricultural land

Public Rights of Way - Route Code: N64/35 (Footpath)

Public Rights of Way - Route Code: N64/78 (Footpath)

Public Rights of Way - Route Code: N62/1 (Footpath)

Public Rights of Way - Route Code: N64/33 (Footpath)

Public Rights of Way - Route Code: N64/34 (Footpath)

TPO/2022/0063

EA - Risk of Surface Water Flooding

9. Consultations

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

Consultees

9.1 Gillingham Town Council

Gillingham Town Council objects to application no. P/MPO/2026/01652 as councillors remain unconvinced that all reasonable avenues for achieving the originally approved affordable housing mix have been fully explored. Evidence within the applicant's tendering report indicates that several Registered Providers (RPs) sought further time or clarification, suggesting the opportunity may not have been adequately marketed or pursued.

Furthermore, approving the removal of the affordable housing clause risks undermining the supply of homes for those in greatest local need, particularly affordable rented units, and could set an undesirable precedent for future S106 modifications.

The Council strongly urges that:

- The site be re-marketed to Registered Providers;
- Further engagement be undertaken to address concerns and timing issues raised by RPs; and
- All potential options, including negotiation and scheme adjustments, are thoroughly exhausted before any Deed of Variation is considered.

Officer Note: To clarify, there is no change to the S106 requirement for Affordable Rented Units which are still required to be delivered as per the original agreement. The change proposed removes the cap of 30% on the shared ownership units (which are half of the required affordable housing mix) which can be delivered as discount market units.

9.2 Dorset Council - Housing Enabling Team

The Housing Enabling Team supports the modification of the Section 106 Deed of Variation, because the overall amount of affordable housing being delivered across the whole site will not be affected by this change.

Having reviewed the applicant's submission and tendering evidence, we remain satisfied that a robust approach has been taken to identify a suitable Registered Provider to deliver the affordable housing on this phase. The applicant has approached all potentially suitable Registered Providers and provided adequate opportunities for engagement. We acknowledge that some of the units do not meet the NDSS requirements which has limited interest from one potentially suitable Registered Provider, but the responses overall do reflect current market conditions and pressures within the Registered Provider sector.

In light of the absence of a Registered Provider partner for this parcel, the proposal to deliver affordable housing as Discount Market Units (DMU) is considered an acceptable alternative. These units still fall within the definition of affordable housing and will make a

meaningful contribution to meeting local needs, albeit serving a different segment of the community compared to affordable rented tenure.

Importantly, this needs to be considered in the wider context of the Ham Farm scheme as a whole. The development is over-delivering affordable housing on another phase which helps to ensure that the overall objectives of the S106 agreement continue to be met and that provision for those in greatest need is not undermined.

On this basis, we are confident that reasonable avenues to secure a Registered Provider for this phase have been fully explored, and that the proposed approach represents a pragmatic solution in the current market.

[Case officer note: With reference to over delivery of affordable housing on another phase the Housing Enabling team is referring to Phase 2 which is delivering 36% affordable housing, which is significantly higher than the 25% requirement across the site].

9.3 Dorset Council - Section 106

No objection subject to the Housing Team supporting this proposed modification.

Representations received

Total - objections	Total - No objections	Total - comments
0	0	0

10. Duties

s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

11. Relevant policies

Development Plan

The North Dorset Local Plan Part 1 (LPP1) was adopted by North Dorset District Council (NDDC) on 15 January 2016. It, along with policies retained from the 2003 North Dorset District-Wide Local Plan, 1 and the 'made' Gillingham Neighbourhood Plan, form the development plan for North Dorset. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

Relevant applicable policies in the LPP1 are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Core Spatial Strategy

Policy 6: Housing Distribution

Policy 7: Delivering Homes

Policy 8: Affordable Housing

Policy 14: Social Infrastructure

Policy 17: Gillingham

Policy 21: Gillingham Strategic Site Allocation

Neighbourhood Plan

The Gillingham Neighbourhood Plan was ‘made’ on 27 July 2018 and forms part of the Development Plan for the town. The neighbourhood plan does not allocate housing sites, nor does it have a specific affordable housing policy.

Other Material Considerations

National Planning Policy Framework 2025

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless specific NPPF policies protecting areas or assets provide a strong reason for refusal and/or any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, with particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes.

Other relevant NPPF sections include:

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes

Emerging Dorset Council Local Plan:

Paragraph 49 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 with further consultation between 18 Aug – 13 October 2025. Being at a very early stage of preparation, the relevant policies in the draft plan should be accorded no weight in decision making.

National Planning Practice Guidance

All of Dorset:

Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

Housing land supply

Dorset Council is unable to demonstrate a 5-year housing supply as required by National Policy. In addition, the strategies for meeting housing needs in the adopted local plans are not designed to deliver the housing need under the Government’s standard method and therefore, in accordance with NPPF footnote 8, the housing policies within the adopted

Development Plan(s) are out of date and the presumption in favour of sustainable development applies. The emerging Dorset Local Plan is not sufficiently progressed and can be afforded no weight in decision making.

Housing Delivery Test (HDT)

The latest HDT results (2023 measurement) show that enough homes have been delivered within the local plan area to demonstrate 106% of the target.

12. 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.

13. Public Sector Equalities Duty

13.1 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.

13.2 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.

13.3 The application site is located in line with the spatial strategy of the local plan, which seeks to locate development close to services. Occupiers of the dwellings would have access to open space and to health and other facilities that are contained within the town.

13.4 The proposed change in affordable home tenure will not result in any disadvantage to people due to their protected characteristics. While there is no specific provision for lifetime homes or accommodation specifically for those with protected characteristics, the form of tenure proposed will provide housing and associated infrastructure to ensure the needs of people with disabilities or mobility impairments or pushing buggies are met. This will be through access to accommodation being subject to the requisite standards applied by the Building Regulations and the County Highway Authority (where applicable).

13.5 Officers have considered the requirement of the duty, and it is not considered that the proposal would give rise to specific impacts on persons with protected characteristics.

14. Public Benefits

The proposals would provide a number of financial and non-financial benefits, including public benefits. These are summarised in the table below:

What	Amount / value
Material considerations	
Affordable housing	The S106 requires 25% affordable housing across the whole site with a 50/50 split between affordable rented and shared ownership units. The following provision has been approved via Reserved Matters Applications on the site to date: Phase 1: 116 dwellings, of which 15No. Discount market units (13% affordable) Phase 2: 280 dwellings, of which 50No. Affordable rent & 50No. Shared Ownership (35% affordable) Phase 3: 155 dwellings, of which 22No. Affordable rent & 9No. Shared Ownership (20% affordable) The approved RM's overall affordable provision amounts to 26% of the dwellings, which is in line with the requirements of the S106.

15. Planning Assessment

15.1 The application site gained outline permission 2/2018/0036/OUT in September 2021 for the construction of up to 961 dwellings. The S106 on the outline consent sets out a schedule outlining the requirements for affordable housing provision on the site.

S106 Obligations:

- Minimum of 10% of the dwellings on the first phase shall be delivered as affordable housing.
- The proportion of affordable housing to be delivered on subsequent phases is to be determined in accordance with the 'Revised Viability Appraisal' at Part 2 of the schedule.
- 50/50 split in Affordable housing provision between Affordable rented units and Intermediate Units.
- No more than 30% of the Intermediate units shall be Discount Market Units.

Note, "Intermediate Units" is defined in the S106 as: '*Affordable Housing provided by way of Shared Ownership Units, Discount Market Units or such other forms of Affordable Housing as may be agreed in writing with the Council*'

15.2 A Deed of Variation P/MPO/2022/05586 was further approved in April 2024 which altered the affordable housing requirements. The consented amendment made the following changes to the agreement:

- Removed the requirement for a viability assessment for each phase of development.
- Committed the developer to a site wide policy compliant 25% affordable housing provision.

15.3 Phase 3 Affordable Housing

In response to the S106 obligations outlined above the consented Phase 3 scheme includes 20% affordable housing provision which contributes toward the site wide total of 25% across the wider site. The affordable housing provision is broken down as per the table below:

Dwelling Type	Size (sqft)	Size (sqm)	Affordable Rent	Shared Ownership	Total
1-bed flat	472	43.9	3	0	3
1-bed maisonette	435	40.4	2	1	3
1-bed maisonette	519	48.2	2	1	3
2-bed flat	655	60.9	3	0	3
2-bed flat	692	64.3	3	0	3
2-bed house	841	78.1	2	1	3
3-bed house	929	86.3	6	3	9
3-bed house	957	88.9	0	2	2
4-bed house	1103	102.5	1	1	2
			22	9	31

15.4 In October 2025 the applicant sought offers from the following 13 Registered Providers who have existing Affordable Housing (AH) stock:

- Abri
- Aster
- Blue Pine Living
- Bournemouth Churches Housing Association
- East Boro Housing Trust
- Hastoe
- HSPG
- LiveWest
- Magna Housing Group
- SNG (Sovereign Network Group)
- Stonewater
- Willow Tree Housing Partnership
- Zen Housing

15.5 DC Housing Enabling requested that the following further two Registered Providers were approached in November 2025:

- Places for People
- Legal & General Homes

15.6 Out of the 15 Registered Providers approached one offer was received. The applicant has confirmed that the offer received was not commercially viable as the offer level was at less than cost to build, and the deposit amount below acceptable terms.

15.7 Of the remaining 14 Registered Providers (RP), 9 confirmed that they would not be interested in the opportunity for the reasons set out below:

- RP is not seeking s106 opportunities at present
- RP is not seeking s106 opportunities at present
- RP does not develop in Dorset
- Opportunity is too large, and the location is too far out
- Opportunity is too large, not considered to be rural, and dwelling sizes don't meet NDSS
- Opportunity is too large and doesn't fit the RP's programme
- Opportunity does not fit the RP's timing and programme requirements for s106 opportunities
- Opportunity does not meet the RP's Homes and Place standard
- Opportunity is too small and delivery timescales do not fit the RP's programme requirements

The applicant has contacted the remaining Registered Providers several times for a response, but they have not yet received a reply.

15.8 The applicant therefore proposes in the application to modify the S106 to remove Clause 2.8 under Schedule 2 which reads 'no more than 30% of the Intermediate Units shall be Discounted Market Units'. If approved this change would enable the applicant to change any number of the Intermediate Units to Discount Market. It is noted that the Intermediate Units are of 50% of the total affordable homes to be provided on the site, and the remaining 50% of units would still need to be provided as Affordable Rent through a Registered Provider.

15.9 In considering the proposed variation to the legal agreement and in order to understand the full context it is worth noting the current market conditions and broader pressures within the Registered Provider sector. There has been a lack of interest in affordable housing delivered by way of S106 agreements on sites such as this by Registered Providers which has been ongoing for many months and is not showing any signs of easing. The issue is complex but in summary Registered Provider's either have a full development programme, are focussing on their Homes England grant funding programme (which does not support grant funding within S106 sites unless additionality can be included) or pausing development activity to focus spending on other priorities such as repairs and maintenance and de-carbonisation of existing stock. Potential solutions are being discussed by the Home Builders Federation, Registered Provider's, local government representatives, Homes England and the Ministry of Housing, Communities and Local Government but solutions have not yet been established and implemented.

15.10 The applicant notes that:

'The issues we are experiencing are national issues which are significantly impacting the ability of all developers to deliver affordable housing, as already encountered on Phase 1 of the same development. This has prompted new government advice, issued in January 2026, on how to "unlock uncontracted S106 homes and ensure they are available for families that need them". The guidance note encourages local planning authorities to "take advantage of existing planning flexibilities to renegotiate S106 agreements and allow the tenure of homes", seeking "Discount Market tenures in the first instance" and aiming to confirm their decisions "as quickly as possible".'

- 15.11 Dorset Councils (DC) Housing Enabling Team advises that they support the modification of the Section 106 Deed of Variation, because the overall amount of affordable housing being delivered across the whole site will not be affected by this change.
- 15.12 They are satisfied that a robust approach has been taken to identify a suitable Registered Provider to deliver the affordable housing on phase 3 and that the applicant has approached all potentially suitable Registered Providers and provided adequate opportunities for engagement. They agree that the responses reflect current market conditions and pressures within the Registered Provider sector.
- 15.13 In light of the absence of a Registered Provider partner for this parcel, the proposal to deliver affordable housing as Discount Market Units (DMU) is considered an acceptable alternative. These units still fall within the definition of affordable housing and will make a meaningful contribution to meeting local needs, albeit serving a different segment of the community compared to affordable rented tenure. Whilst the proposed tenure is different from the North Dorset Local Plan policy requirement, and what was secured in the outline consent and subsequent modification, it represents the most affordable housing that is realistically achievable.
- 15.14 Importantly, this needs to be considered in the wider context of the Ham Farm scheme as a whole. The development is over-delivering affordable housing on phase 2, which is being build out by a registered provider so by nature will not be faced with the same hurdle of having to secure an external Registered Provider. Phase 2 can therefore be relied upon to secure a significant proportion of the required Affordable provision which helps to ensure that the overall objectives of the S106 agreement continue to be met and that provision for those in greatest need is not undermined.
- 15.15 DC Housing Enabling are confident that reasonable avenues to secure a Registered Provider for this phase have been fully explored, and that the proposed approach represents a pragmatic solution in the current market.

16. Conclusion

The case officer concludes that the proposed Deed of Variation would be acceptable as although the removal of Clause 2.8 under Schedule 2 may potentially result in a reduction in the number of shared ownership units provided, the overall amount of affordable housing being delivered across the whole site will not be affected by this change. The proposal to deliver affordable housing as Discount Market Units (DMU) is considered an acceptable alternative. The current market conditions and broader pressures within the Registered Provider sector have resulted in repeated occurrence of this scenario across the country, prompting government to issue an updated guidance note in March 2026 'Policy statement: a roadmap for Section 106 delivery in England' advising to *"take advantage of existing planning flexibilities to renegotiate S106 agreements and allow the tenure of homes", seeking "Discounted Market tenures in the first instance"*.

17. Recommendation

To **grant** the proposed modification to the Section 106 agreement dated 3rd September 2021.

Recommendation: Approve the modification of the agreement.