

Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG



Application No: 74592
Application Type: S106 Discharge or Modification
Application Expiry: 11 March 2022
Ext Of Time Expiry: 11 March 2022
Publicity Expiry: 7 February 2022
Parish/Ward: LANDKEY BARNSTAPLE/NEWPORT LANDKEY
Location: Land to the West of Portmore Golf Course (known as Mount Sandford Green)
Barnstaple
Devon
Proposal: Notice of an application to modify a planning obligation under Regulation 3 of the T & C P (modification of planning obligations) Regulations 1992 in respect of applications 54923, 59666 and 60487 Mixed use development comprising 250 dwellings together with 2.8 HA Innovation Park
Agent: Woodward Smith Chartered Architects
Applicant:
Planning Case Officer: Ms J. Watkins
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations
Decision: Variation to a previous committee decision
Level/Reason for Report to Committee:

Site Description

The site is bounded on two sides by roads with the A361 to the northwest and Landkey Road to the south.

To the east is the Portmore Golf Course and the group of properties at Whiddon Park (Whiddon Park House, The Barn, Pear Tree Cottage, The Mews, Forest House, Amber House and The Court). To the south west on the northern side of Landkey Road are a group of five properties (Merrymeet, Trewiddon, Falconia, 1&2 Northgate). To the south and on the opposite side of the road is a well-established ribbon of development which primarily sits at a higher level to the road.

The site falls north from the Landkey Road which runs along its southern boundary and from east to west towards the watercourse in the North West corner. The site comprises Grade 2 and 3a agricultural land which is amongst the best and most versatile agricultural land within North Devon.

Two phases of development have been undertaken and are now called Garden Green and The Lawns. These new properties run adjacent to the Newport/Landkey Road.

Recommendation

APPROVAL

Legal Agreement Required: Yes - Deed of Variation

Planning History

Reference Number	Proposal	Decision	Decision Date
54923	Outline application for mixed use development comprising of 250 passivhaus dwellings together with 2.8 ha innovation park (further amended plans & information) at land west of Portmore Golf Course, (Known As Mount Sandford Green), Barnstaple	Outline +S106 Approval	18 August 2014
59566	Variation of condition 3 (approved plans) to exclude land to the rear of 1 & 2 Northgate from within the red outline attached to outline planning permission 54923 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park at Landkey Road, Barnstaple	Approve With Deed Of Variation	30 November 2015
60487	Variation of condition 6 (design & development standards) attached to outline planning permission 59566 (mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park) to allow amended supporting statement incorporating design & access statement at Mount Sandford Green, Barnstaple	Outline +S106 Approval	21 June 2016
60488	Reserved matters application for erection of 22 dwellings (phase 1 - the lawns) (outline planning permission 60487 for mixed use development comprising of 250 Passivhaus dwellings together with 2.8 ha innovation park)(amended plans and description) at Mount Sandford Green, Barnstaple	Reserved Matters Approval	24 June 2016
63188	Approval of details in respect of discharge of condition 3 (footway/cycleway) attached to planning permission 60488 at Mount Sandford Green, Parcel D1 Msg, Landkey Road, , Barnstaple	Discharge Of Condition Approve	4 August 2017

Reference Number	Proposal	Decision	Decision Date
63179	Approval of details in respect of discharge of conditions 12 (archaeology), 27 (ground contamination) & 30 (works programme) attached to planning permission 60487 in respect of phase 1 (reserved matters permission 60488) at Mount Sandford Green, Landkey Road, Barnstaple	Discharge Of Condition Approve	20 September 2017
64260	Outline application for erection of two dwellings together with erection of single garage for existing dwelling (some matters reserved) at garden of 2 Northgate, Landkey Road, Barnstaple	OL Approval	14 March 2018
65414	Reserved matters application for erection of 93 dwellings (phase 2/3 - The Gardens, The Green, Mount Sandford Green & The Woods) and agreement of revised masterplan (condition 4), archaeology (condition 12) of outline planning permission 60487 (mixed use development comprising of 250 dwellings together with 2.8 ha innovation park) (amended plans - description & additional information) at Mount Sandford Green, Barnstaple	Full Planning Approval	21 December 2018
71973	Reserved matters application for the erection of 11 residential units (following outline approval 54923) to agree amended plans which vary design of approved plots (reserved matters approval 65414) at Sub Phase 2b, Mount Sandford Green, Barnstaple	Approved	30 September 2020

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area	Within constraint
Chivenor Safeguard Zone	Within constraint
Class III Road	
Critical Drainage Area	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Unclassified Road	

Constraint / Local Plan Policy	Distance (Metres)
Within 100m of Adopted Local Green Space: BAR19(1) Portmore Golf Course	Within constraint
Within 50m of Adopted New or Upgraded Road: BAR04 Mount Sandford Green	Within constraint
Within Barnstaple North Development Boundary ST06	Within constraint
Within Adopted Employment Allocation: BAR04 Mount Sandford Green	Within constraint
Within Adopted Housing Allocation: BAR04 Mount Sandford Green	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Flood Zone 2	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within: SSSI 5KM Buffer in North Devon	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
BAR04 - Mount Sandford Green	
ST17 - A Balanced Local Housing Market	
ST18 - Affordable Housing on Development Sites	

Consultees

Name	Comment
Barnstaple Town Council Reply Received 4 February 2022	RECOMMEND: Refusal (NC) The reduction in affordable housing contradicts intentions within the original application and is also unacceptable against evidenced need in the area.
Councillor C Leaver	No response
Councillor D Luggar	No response
Councillor G Lane	No response
Councillor L York	No response
Housing Enabling Officer	Responded at pre-application stage. Formal comments awaited
Landkey Parish Council Reply Received 3 February 2022	Recommended REFUSAL. There is a need for affordable homes in the area and the proposal seeks to unreasonably and considerably reduce the required percentage of 30%.

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	1	0.00	0.00

- Loss of around 24 much needed affordable homes.
- Developers are being allowed to shirk their responsibility
- The profit from this development will be in excess of Eight Million Pounds.
- Fails to meet a local need.
- The housing crisis has resulted in thousands of families either struggling to or utterly unable to continue living in our community.
- Key worker recruitment problems
- Breakdown of family cohesion and support networks
- Loss of community spirit
- Mental health problems
- Indirect discrimination against lower income social groups
- Loss of educational attainment for children and young people -60% of relocated students over the age of 12 suffer from serious mental health challenges when trying to settle into a new school.

Considerations

Proposal Description

This application seeks to vary by agreement the proportion of affordable houses being delivered at Mount Sandford Green

The proposal is that of the 240 dwellings, 192 will be Open Market and 48 will be Affordable Homes (20%). This includes 36 Social Rent Properties (75% of all Affordable Homes).

Viability summary

- Gross Development Value 62,465,067
- Total Costs 54,456,879
- Development return 8,008,188
- Development return as % of GDV 12.82%

Government Guidance is:

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies.

A draft Deed of Variation has been submitted.

Planning Considerations Summary

- Whether the proposed level of affordable housing is acceptable

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

The Council aims to seek the delivery of housing to meet projected needs. This site reached an approval as a challenge to our five year housing land supply in 2014/5 (54923/59566).

It was since recognised as an allocation in the NDTLP as part of policy BAR04.

We have now gone full circle with the recent Burwood appeal decision. We recognise that we are currently unable to demonstrate a five year supply of deliverable housing land sufficient to meet their housing requirements; with the appeal determining there to be a 4.23 year supply as of 1st April 2019, based on the application of a 20% buffer and the use of the 'Liverpool' method to distribute any backlog of under-delivery since the beginning of the plan period in 2011, over the remainder of the plan period up to 2031.

When application 54923/59566 was approved a s106 was signed which secured a quantum of social benefits. At the point when the agreement was signed the developer must have been confident that this was an acceptable and deliverable package. Whilst there has been a time lapse since this agreement, we have seen other unallocated green-field sites deliver the full requested s106 package as well as other allocations that are not delivering a policy compliant figure. As a Council we have to be convinced that our community is getting the best from this scheme.

There is no mechanism to review this agreement formally but the applicant can seek a Deed of Variation by agreement and hence this application.

Given the Council's position with regards to housing delivery we need to facilitate delivery.

The full Viability Appraisal has been reviewed by our appointed advisors Plymouth City Council (PCC).

PCC concluded that *'the evidence does support the case that 30% affordable housing is not viable and it would be unlikely for any developer to bring forward the remaining housing'*.

and

'we consider that the provision of 20% affordable housing across the seven phases and the provision of all previous infrastructure is a balanced position that is very likely to result in the future delivery of the remaining housing on the site with suitable returns

against risk for the developer and the planning system securing benefit in the public interest

Should the Local Planning Authority be minded to reduce the s106 requirements placed on the scheme it would be appropriate for them to consider including an upward only review mechanism where a share in any profit above the expected value on future phases going towards additional affordable housing or infrastructure delivery. Review before the completion of phase 6 before the commencement of phase 7 could be a reasonable point in time, allowing any additional affordable housing units to be provided in phase 7.

Conclusion

In our opinion the provision of 20% Affordable Housing across phases 1-7 represents a reasonable position at this pre-application stage, but is the minimum that we would recommend the Local Planning Authority pursue. We also believe that the MUGA can be retained alongside providing 20% Affordable Housing. Careful consideration should be had to including an upward review mechanism in any negotiated s106. It is very likely, in our opinion, that the developer would continue delivery on the site with this level of affordable housing and infrastructure’.

In order to provide some reassurance that delivery will occur across the full site a revised reversed matters application has been submitted for every phase and is accompanied by a delivery plan (74379).

In terms of delivery, the first phase did not deliver any affordable housing. 6 units have been delivered in Phase 2.

The remaining affordable units are now proposed to be delivered within the rest of the site.

Figures: Tables showing affordable housing delivery

Phase	Units	Total	Affordable						Open Market		
			Social Rent (75%)			Shared Equity (25%)			Total	Beds	Units
			Total	Beds	Units	Total	Beds	Units			
1	22			1 Bed	0		1 Bed	0		1 Bed	0
2a/2b	43			2 Bed	0		2 Bed	0		2 Bed	15
2c	6	71	0	3 Bed	0	6	3 Bed	6	65	3 Bed	8
				4 Bed	0		4 Bed	0		4 Bed	34
				5 Bed	0		5 Bed	0		5 Bed	7
				6 Bed	0		6 Bed	0		6 Bed	1
3	48			1 Bed	4		1 Bed	0		1 Bed	0
4	26			2 Bed	23		2 Bed	6		2 Bed	60
5	27	169	36	3 Bed	7	6	3 Bed	0	127	3 Bed	46
6	68			4 Bed	2		4 Bed	0		4 Bed	17
				5 Bed	0		5 Bed	0		5 Bed	3
				6 Bed	0		6 Bed	0		6 Bed	1

SHARED EQUITY (25%)							
Phase	Beds						Total
	1	2	3	4	5	6	
1	0	0	0	0	0	0	0
2a-2b	0	0	6	0	0	0	6
2c	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0
6	0	6	0	0	0	0	6
Total (2c/6)	0	6	0	0	0	0	6
TOTAL (1/6)	0	6	6	0	0	0	12

SOCIAL RENT (75%)							
Phase	Beds						Total
	1	2	3	4	5	6	
1	0	0	0	0	0	0	0
2a-2b	0	0	0	0	0	0	0
2c	0	0	0	0	0	0	0
3	0	17	5	2	0	0	24
4	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0
6	4	6	2	0	0	0	12
Total (2c/6)	4	23	7	2	0	0	36
TOTAL (1/6)	4	23	7	2	0	0	36

The guidance provided by Plymouth City Council does recognise that in order to ensure that the site continues to be built out that a lower level of affordable housing should be considered. The VA and the Plymouth City Council review has been considered by the Housing Enabling Team. In June 2021 they 'accept that only 20% instead of 30% on phases 1-7 is considered viable. I am also concerned about actual delivery of such units and hope they can put our minds at rest by starting to deliver now with phase 3 and Live West'. Live West are their favoured affordable housing delivery partner.

The applicant has provided the attached delivery statement

'The submission of these two planning applications sought to provide continuity on site and therefore the delivery of the remainder of the site is as follows:

- *Phase 2c Orchard Green 6 OM dwellings commence work April/May 2022 complete end 2022 early 2023.*
- *Phase 3 Sycamore Green and Copper Beech Way, which comprises of 24 affordable homes and 24 OM will commence Oct/Nov 2022 and complete Jan 2024.*
- *Phases 4-6 will follow on these dates as per the delivery infrastructure plan in application number 74379'.*

The time limit for implementing 74379 has also been foreshortened to encourage delivery. Half of the affordable homes will be delivered by January 2024. The applicant further states that he 'has been working closely with a RSL to make sure all the housing sizes and design are up to the latest standards, as soon as planning permission is granted then we have permission we move things forward with them.'

The applicant is required to agree the Affordable Housing Scheme with the Proper Officer (Housing Enabling) as part of the existing s106 commitment.

Housing Enabling have requested a review mechanism to allow for the values to be tested as set out in the Plymouth City Council Review. With regard to the review mechanism, it will be slightly more complicated than normal given the relationship to development that has already occurred and it will be important to agree on what certain assumptions will be fixed in the s106 for the review. We will ask Plymouth City Council to continue to assist us with this process. The review mechanism would be secured as part of the Deed of Variation

Conclusion

Whilst it continues to be disappointing that our allocated sites are not delivering policy compliant schemes, the reality of the last few years is that building costs and infrastructure costs and the impact of Covid is affecting delivery. In order to ensure that this site continues to deliver housing and the much needed affordable housing units, approval of the application is therefore recommended subject to the completion of a Deed of Variation with a review mechanism at the end of Phase 5 to see if affordable housing numbers can be increased as part of Phase 6.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

APPROVAL

Legal Agreement Required: Yes – Deed of Variation

Inserts

- 1) Location Plan
- 2) Delivery Statement for Mount Sandford Green received 17 February 2022



Lynton House, Commercial Road,
Barnstaple, EX31 1EA

74592 - Mount Sandford Green, Barnstaple EX32 9LB

© Copyright and database right 2017 Ordnance Survey Licence No. 100021929. No unauthorised reproduction permitted.

Copy Supplied to
Accompany Planning
Committee Report

Scale: 1:2500
Date: March 2022