



**TO:** Planning Committee South

**BY:** Head of Development and Building Control

**DATE:** 23<sup>rd</sup> April 2024

**DEVELOPMENT:** Modification of legal agreement under planning permission DC/19/1707 to remove the obligations relating to the over-55s housing and vary the trigger for the provision of workshops to the occupation of the 60<sup>th</sup> residential unit.

**SITE:** Land at Phase 3 Abingworth Nurseries, Storrington Road, Thakeham, West Sussex

**WARD:** West Chiltington, Thakeham and Ashington

**APPLICATION:** S106/23/0017

**APPLICANT:** **Name:** Bellway Homes Limited (South London) **Address:** Redhill Surrey RH1 1QT

**REASON FOR INCLUSION ON THE AGENDA:** By request of Councillor Manton

**RECOMMENDATION:** To approve the variation of the S106 legal agreement.

**1. THE PURPOSE OF THIS REPORT**

1.1 To consider the planning application.

**DESCRIPTION OF THE APPLICATION**

1.2 Permission is sought to vary the S106 legal agreement secured under planning permission DC/19/1707 as granted on 25<sup>th</sup> February 2021. This planning permission was for the development of Phase 3 of the Abingworth Meadows site for 75 dwellings, allotments and workshops. This development included affordable housing and 8 dwellings strictly for those over the age of 55. The S106 legal agreement secured the affordable housing, over-55s housing, and the workshops.

1.3 The proposal seeks the following amendments to the S106 legal agreement:

- Amend the trigger for the delivery of the workshops. The legal agreement currently requires the delivery of the workshops by the 38<sup>th</sup> unit. The proposal is to amend this to the occupation of the 60<sup>th</sup> residential unit. (Nb as submitted the application originally sought an amendment to the 70<sup>th</sup> residential unit)
- Remove the requirement to provide the 8 dwellings as over-55's only housing.

**DESCRIPTION OF THE SITE**

1.4 The application relates to Phase 3 of the Abingworth Development Site (known as Abingworth Meadows). Phase 3 is to south of the site's central greenspace and attenuation feature. The Abingworth Development site initially was granted approval for the development of 146 dwellings, including five workshop units, a village hall, and a shop under permission

DC/10/1314. The approval also included a football pitch with changing rooms, a cricket pitch, cricket pavilion, a LEAP, 10 affordable housing units, 20 local worker units, a nursery and an attenuation pond surrounded by open space in the centre of the site. The approval also included allotments to the south of the site, traffic calming measures for the main road through the village and rights of way improvements. Enabling works for the existing mushroom factory in Thakeham was also part of this application.

- 1.5 Over the years, there have been many amendments to the original approval. The site now has extant planning permission for the development of 209 dwellings (including Phase 3). Phases 1 & 2 of the development are now complete and occupied, whilst the football pitch, changing rooms, cricket pitch, cricket pavilion, Village Hall, LEAP, attenuation pond, shop/cafe, nursery and vets have all been completed and are in use.
- 1.6 Phase 3 to the southern section of the site is the last remaining residential part of the site to be constructed. Works are well underway to Phase 3 with many houses now constructed.

## **2. INTRODUCTION**

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

#### **2.2 National Planning Policy Framework (Dec 2023)**

#### **2.3 Horsham District Planning Framework (HDPF 2015)**

Policy 1 - Strategic Policy: Sustainable Development  
Policy 2 - Strategic Policy: Strategic Development  
Policy 3 - Strategic Policy: Development Hierarchy  
Policy 4 - Strategic Policy: Settlement Expansion  
Policy 15 - Strategic Policy: Housing Provision  
Policy 16 - Strategic Policy: Meeting Local Housing Needs  
Policy 18 - Retirement Housing and Specialist Care  
Policy 32 - Strategic Policy: The Quality of New Development  
Policy 33 - Development Principles  
Policy 35 - Strategic Policy: Climate Change  
Policy 36 - Strategic Policy: Appropriate Energy Use  
Policy 37 - Sustainable Construction  
Policy 38 - Strategic Policy: Flooding  
Policy 39 - Strategic Policy: Infrastructure Provision  
Policy 40 - Sustainable Transport  
Policy 41 - Parking

#### **2.4 Horsham District Local Plan (2023-40) (Regulation 19)**

Policy 1: Sustainable Development  
Policy 2: Development Hierarchy  
Policy 3: Settlement Expansion  
Policy 6: Climate Change  
Policy 7: Appropriate Energy Use  
Policy 8: Sustainable Design and Construction  
Policy 9: Water Neutrality  
Policy 12: Air Quality  
Policy 14: Countryside Protection  
Policy 19: Development Quality  
Policy 20: Development Principles

Policy 23: Infrastructure Provision  
Policy 24: Sustainable Transport  
Policy 25: Parking  
Policy 27: Inclusive Communities, Health and Wellbeing  
Policy 37: Housing Provision  
Policy 38: Meeting Local Housing Needs  
Policy 39: Affordable Housing  
Policy 40: Improving Housing Standards in the District

2.5 **Thakeham Neighbourhood Plan** (January 2017).  
Thakeham 4: Abingworth Nursery

2.6 Parish Design Statement: Thakeham Parish Design Statement.

2.7 Supplementary Planning Guidance:  
Planning Obligations and Affordable Housing SPD (September 2017)

## 2.8 PLANNING HISTORY AND RELEVANT APPLICATIONS

DC/19/1707	Revised layout for Phase 3 of the Abingworth Meadows development (Original application ref: DC/10/1314) to provide for 75 dwellings including 26 affordable dwellings and community studio workshops.	Application Permitted on 25.02.2021
DC/22/0293	Non Material Amendment to previously approved application DC/19/1707 (Revised layout for Phase 3 of the Abingworth Meadows development (Original application ref: DC/10/1314) to provide for 75 dwellings including 26 affordable dwellings and community studio workshops) Amendments to Plots 1-41.	Application Permitted on 14.03.2022
DC/22/0773	Variation of Condition 1 of previously approved application DC/19/1707 (Revised layout for Phase 3 of the Abingworth Meadows development (Original application ref: DC/10/1314) to provide for 75 dwellings including 26 affordable dwellings and community studio workshops). Amendment to design and layout of houses at plots 42-75.	Application Permitted on 20.10.2022

2.9 The original consent for the Abingworth site dates back to 2013 (ref: DC/10/1314). Since then, there have been numerous applications to amend the approval.

## 3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

### CONSULTATIONS

3.2 **HDC Economic Development**: Comment (summarised).  
It is good to see workshops listed on sites such as Right Move, On the Market etc. but we have been unable to see this listing on Fowlers own site.

Economic Development would like to see more information supporting this proposal as the marketing report refers to 10 enquiries but only 2 are listed. We would like to understand why the units are not being considered for let on an individual basis and as interest has been low to date, what will be done differently in the coming months.

More effort is needed marketing this site and perhaps talking to the Parish Council could help as they will have local knowledge of demand.

Whilst we may be open to changing the trigger, we would not support moving it to the 70th.

## PUBLIC CONSULTATIONS

### 3.3 **Thakeham Parish:** Comment.

- While Members feel that the over-55s housing could have been marketed better, they appreciate the need for affordable housing for everyone. Therefore, while they do consider there to be a need for over 55s housing, they have NO OBJECTION to the removal of this obligation, on the condition that the dwellings are marketed only to local residents for a minimum of six months; that they are advertised as 'starter homes'; and as such that they are offered at a genuinely affordable price. The term 'local' may be considered as within the 'Storrington hub' or within a set radius, for example ten miles of central Thakeham.
- When considering whether to change the trigger for the provision of workshops from the occupation of the 38<sup>th</sup> residential unit to the 70<sup>th</sup> residential unit, Members agreed a comment of STRONG OBJECTION. This was based on the perception that the workshops have been very poorly marketed, and that had marketing been more appropriate this delay would not be required. Members also noted that the deadline for the workshops has already been previously delayed.

*NB: The above comments were based on the original proposal to amend the trigger to the 70<sup>th</sup> unit. This has now been amended to a trigger of the 60<sup>th</sup> unit.*

### Representations

### 3.4 One letter of representation has been received objecting to the proposal on the following grounds:

- Homes for over 55s is very much needed in this area. There are good amenities within easy walking distance including a well stocked local shop and as such, the area provides an excellent position for such housing. Such provision for the over 55s housing should therefore remain within this application as originally required.

## 4. **HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS AND EQUALITY**

4.1 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

4.2 The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

## 5. **HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

## 6. PLANNING ASSESSMENTS

- 6.1 Under DC/19/1707, planning permission was granted for the construction of 75 dwellings to Phase 3 of the Abingworth Meadows development site. This is the final phase of the site and includes affordable housing, 5 commercial units, 8 units for older persons accommodation (aged over 55) and allotments. This application was granted in February 2021 and included a S106 legal agreement that secured, amongst things, the provision of the affordable housing, allotments, the commercial units and the over-55 units. Subsequent minor amendments have been made to the original permission however the requirements of the legal agreement has remained. The applicants, Bellway Homes, are now well into the construction of Phase 3.

### Delivery of the Workshops:

- 6.2 The planning permission under DC/19/1707 includes the provision of 5 workshop units (Class B1 business use) to the western side of the site. These units formed part of the original permission granted back in 2013 and were retained in the amended application DC/19/1707. The S106 legal agreement obligates their delivery by the occupation of the 38<sup>th</sup> dwelling within Phase 3, with a marketing strategy to have been approved by the Council prior to development of Phase 3 commencing.
- 6.3 An initial marketing strategy was submitted in October 2022 under application S106/22/0017, however this strategy, including subsequent amendments, has not yet been approved owing to questions and concerns raised by the Council's Economic Development team that have not been satisfactorily addressed. This includes a key concern that the workshops are only being marketed as a whole site for a purchaser to build on, rather than the units being let or sold on an individual basis. Development of the housing in Phase 3 is ongoing. No works to construct the workshops has commenced.
- 6.4 As originally submitted, the applicant proposed to amend the trigger to state that the workshop units had to be delivered by the occupation of the 70<sup>th</sup> unit, however this has since been revised to the 60<sup>th</sup> unit. The applicant has submitted a marketing report in support of this application which outlines the marketing undertaken and the difficulties they have had in finding potential occupiers for the units. Bellway have marketed the units through lead agent Fowlers Estates and Mike Jones which has involved both agents' wide contact lists and online marketing through a number of websites starting in November 2022.
- 6.5 The marketing report (dated May 2023) sets out that there were 10 enquiries up to the point Fowlers Estates were instructed to cease marketing and seek best and final offers in April 2023. One local business offered but subsequently withdrew. A second interested party was interested in one of the units once constructed but was not prepared to meet the requirement to offer for the entire land for the five units. The site remains advertised on the Fowlers Estates and Rightmove websites, albeit it no longer appears to be on the OntheMarket website.
- 6.6 The Council's Economic Development Team have commented that more information is required regarding the marketing, including more detail as to why the units are not being considered for let on an individual basis and as interest has been low to date, what will be done differently in the coming months. In order to allow for further improved marketing to take place officers agree that a relaxation of the trigger for the delivery of the units is appropriate in this instance.
- 6.7 However, both the Council Economic Development Team and the Parish have commented that they object to the proposal to amend the trigger to the 70<sup>th</sup> unit, and officers agree that this is not appropriate, especially as Phase 3 is for 75 homes only. The original trigger of the 38<sup>th</sup> units was considered appropriate as this was half the permitted housing. A trigger of the 70<sup>th</sup> unit is considered too near the end of the development of the site for 75 dwellings

(and Abingworth Meadows as a whole) and creates a risk (albeit small) that if the final 5 dwellings within Phase 3 are not completed, then there would be no requirement to deliver these workshop units.

- 6.8 As such, the applicant has agreed to amend their current proposal to the trigger of the 60<sup>th</sup> unit. Officers consider this to be a more appropriate trigger. It is important to note that the current proposal does not remove the requirement to deliver the workshop units. The applicant is still committed to their provision and has been in talks with the Parish over the use of workshops and potential other uses. It should also be noted that the workshops are an historical provision taken over from the original 2013 permission for the development for the whole of the Abingworth Meadows site and thus have been a commitment in the development for some ten years.
- 6.9 Overall, whilst it is disappointing that the marketing that has been undertaken has not been agreed by the Council as required by the S106 legal agreement, and that the marketing that has been undertaken appears to be very narrow requiring only the purchase of the entire site for development rather than on any other basis, in order to facilitate the continued delivery of the Phase 3 housing it is considered by officers to be acceptable in this instance to allow for a relaxation to the completion of the 60<sup>th</sup> dwelling for the workshops to be delivered.

#### Removal of Requirement for Over 55 Units:

- 6.10 The S106 legal agreement requires the developer to provide the 8 specified dwellings for occupation by the over-55s only in perpetuity. The over-55s units were included in the agreement as a requirement to provide accommodation for older households in compliance with the Thakeham Neighbourhood Plan policy for this site (Thakeham4: Abingworth Nursery).
- 6.11 The applicant has stated within a 'Statement of Truth' that following 6 months of standard Bellway marketing, which included Bellway's own online website, Rightmove and New Homes for Sale on The Market, Bellway took further steps to try and reach the right audience. This included using a local agent, Fowlers, whilst also advertising in the West Sussex County Times and Sussex Life.
- 6.12 Despite the above, Bellway have only been able to sell one of the over-55 units since site sales commenced in September 2022. The applicant has stated that this is down to the challenging housing market, driven by increased interest rates, which has had a significant impact on the housing market. The over 55 units are perfect for downsizers but are also ideal for first time buyers. Bellway have stated that they have received interest in these units for people under the age of 55. The 'Statement of Truth' states that one possible over-55s purchaser had funding refused due to this restrictive covenant which would run with the land/property.
- 6.13 Officers consider that sufficient evidence has been presented in the form of marketing over an appropriate period and that very limited interest has come forward for these units. Removing the obligation would free up these smaller units to other potential buyers, such as first time buyers which would be a benefit. Also, it should be noted that removing the obligation would not result in any financial gain to Bellway as the price would remain the same with or without the obligation.
- 6.14 The Parish Council have suggested that these units are instead marketed only to local residents for a minimum of six months, that they are advertised as 'starter homes', and/or are offered at a genuinely affordable price. Policy Thakeham4 only refers to the provision of dwelling suited to older households therefore it is not possible in policy terms to require that they be re-provided as starter/first homes (which come with discounted price) or for local persons only. Consequently the provision of the alternative forms of housing as suggested

by the Parish Council is not considered necessary to make the application acceptable from a planning perspective.

- 6.15 Taken into account the genuine attempts to market the dwellings for over-55s occupation only, and the evidential lack of interest in the over-55 units, the removal of the obligation is considered appropriate in this instance. The removal of the obligation would also allow these units to go back on the general market which would still allow for their purchase by downsizers or first time buyers.

Water Neutrality:

- 6.16 The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.
- 6.17 For this proposal, this scheme does not increase the number of units (commercial or residential) already approved on this part of the site, therefore water consumption will not increase as a result of these amendments. As such, the grant of planning permission would not adversely affect the integrity of the Arun Valley sites or otherwise conflict with policy 31 of the HDPF, NPPF paragraph 180 and the Council's obligations under the Conservation of Habitats and Species Regulations 2017.

## **7. RECOMMENDATIONS**

- 7.1 To approve the variation of the S106 legal agreement to planning permission DC/19/1707 to:
- Amend the trigger for the delivery of the workshop units to the occupation of the 60<sup>th</sup> residential unit.
  - Remove the requirement to provide the specified eight dwellings for occupation by over-55's only.