

Officer Report On Planning Application: 14/01891/DPO

Proposal :	Application to remove affordable housing obligation from Section 106 Agreement in relation to planning permission 10/03721/FUL (as amended) (GR 345407/108646)
Site Address:	Bradfords Site, Station Road, Misterton.
Parish:	Misterton
CREWKERNE TOWN Ward (SSDC Members)	Cllr J Dyke, Cllr M Best and Cllr A M Singleton
Recommending Case Officer:	Adrian Noon Tel: 01935 462370 Email: adrian.noon@southsomerset.gov.uk
Target date :	9th June 2014
Applicant :	Betterment Properties (Weymouth) Ltd
Agent: (no agent if blank)	Chesterton Humberts, Motivo House, Bluebell Road, Yeovil, Somerset BA20 2FG
Application Type :	Non PS1 and PS2 return applications

The Committee may be required to go into confidential session to receive legal advice and question the District Valuer. As soon as this has been completed the application will be considered and determined in public session.

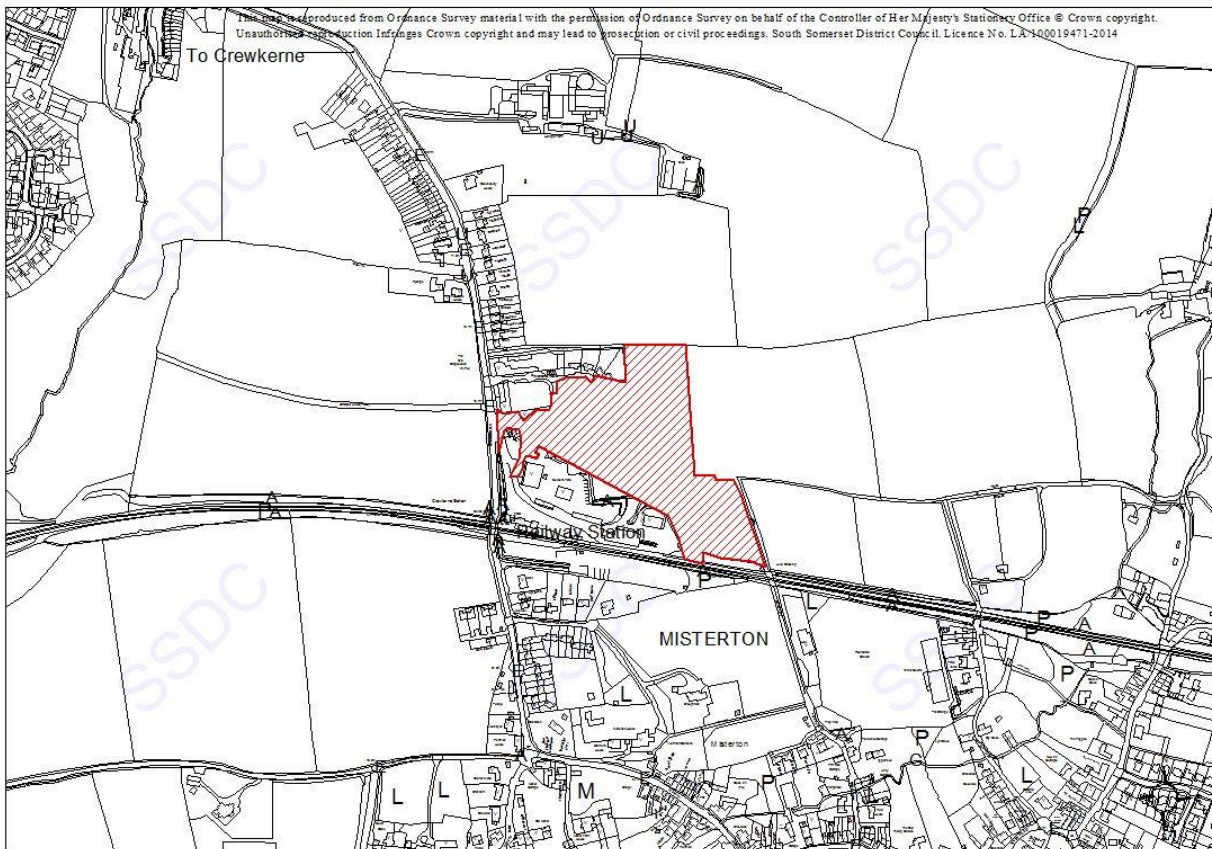
REASON FOR REFERRAL TO COMMITTEE

This application is referred to Committee as the proposal seeks to reduce planning obligations which were considered by members when approving the original application (10/03721/FUL).

UPDATE

This application was referred to Committee in August when it was deferred to enable the District Valuer to attend to answer members detailed questions.

SITE DESCRIPTION AND PROPOSAL



This 3.17 hectare site, which has approval for the erection of 101 dwellings, is located on the east side of Station Road, to the rear of the builders merchants and to the north of Crewkerne Railway station and is wholly in the parish of Misterton. It comprises a former agricultural feed mill site and former agricultural land, now partially developed. The site is within development limits, apart from the south-eastern part which falls outside the boundary. Where the site adjoins countryside it is bounded by hedgerows.

This is an application to omit the 10 affordable houses agreed as part the section 106 obligation agreed with the original grant of permission. All other obligations would stand.

The application is supported by a viability appraisal which has been considered by the District Valuer. A copy of their report which is confidential has been circulated to members under separate cover.

RELEVANT HISTORY

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| 12/01420/S73A | Application approved for the variation of condition 16 of the original permission to allow the occupation of no more than 25 dwellings prior to full completion of the approved new access. |
| 12/00582/FUL | Planning permission granted for erection of additional dwelling next to plot 67. |
| 11/01730/S73 | Application approved to vary condition 16 of 10/03721/FUL to vary the trigger point for the delivery of the new access from 'prior to |

commencement of the development hereby approved' to 'prior to the occupation of any of the dwellings hereby approved'. Varied condition 16 stated:-

No dwelling hereby approved shall be occupied until such time as the right turn lane facility off the A356 together with the Estate Road, as approved by application 08/02511/FUL and subject to a separate Section 278 agreement, as shown generally in accordance with drawing No. 3714/06, shall have been fully implemented in accordance with the approved design and specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highways safety in accordance with saved policies ST5 and TP4 of the South Somerset Local Plan and policy 49 of the Somerset and Exmoor National Park Joint Structure Plan (April 2000).

11/00868/S73 Application approved to vary condition 2 of 09/03721/FUL to allow the use of alternative house types on plots 1, 40, 42 and 43 (08/08/11).

10/03721/FUL Planning permission granted for erection of 100 houses subject to a unilateral agreement to secure appropriate planning obligations (01/02/11). The obligations were reduced following an appraisal of the viability of the scheme and covered:-

1. the provision of 10 affordable units for rent
2. improvements to the footpath crossing over the railway line
3. the provision of a pedestrian crossing in Misterton, near the school.
4. The provision of a MUGA within the existing Misterton Parish recreation ground and maintenance
5. Travel Planning measures, including bus stop enhancement/provision (on both sides of the road) and footpaths through the site, to the rail crossing and from the rail crossing to the recreation ground.
6. contributions towards sports and leisure facilities in Misterton/Crewkerne
7. the future management of the on site public open space including hedges

The approved scheme has been implemented and provision has been made for all the other obligations. The applicant is in on-going discussions to agree the detail of the LEAP to be sited in the open space to the south of the site, the trigger point for its delivery is the occupation of the 50th house

All conditions have been discharged with the exception of the agreement of the agreement of the verification reports in relation to the approved contaminated land remediation measures. This is being covered on a plot by plot basis as they are completed and tested.

POLICY

For the purposes of determining current applications the local planning authority considers that the relevant development plan comprises the saved policies of the South Somerset Local Plan 2006.

The policies of most relevance to the proposal are:

Policy ST5 - General Principles of Development
ST10 – Planning obligations
HG7 – Affordable Housing

National Planning Policy Framework

Section 106 affordable housing requirements: Review and appeal (DCLG Guidance April 2013)

CONSULTATIONS

Misterton Parish Council – do not support the removal of the affordable housing as this is needed in the village.

Strategic Housing Manager - A proportion of the affordable housing on this site had been set aside to meet the very local need which was identified in the Misterton parish Local Housing Needs Survey (published June 2004) [given that an appropriate site within the development boundary prevents an exception site from being considered under the sequential test]. If the Affordable Housing provision is stripped from this site, it remains the case that we have not addressed those identified needs.

CONSIDERATIONS

The sole issue is whether or not the provision of 10 affordable houses as part of this development would make the scheme unviable.

The application is made under the new section 106BA of the Town and Country Planning Act 1990. This was inserted by the 'Growth and Infrastructure Act 2013' to introduce a new application procedure to review affordable housing obligations on the grounds of viability. There is an associated appeal procedure under a new section 106BC.

The appropriate viability test is whether the evidence indicates that the current cost of building out and a selling the entire site (at today's prices, in the current market), is sufficient to enable a willing developer to make a competitive return.

Government advice suggests that local planning authorities may wish to consider making time-limited modifications whereby, if the development is not completed within a specified time (generally 3 years), the original affordable housing obligation will apply to those parts of the scheme which have not been commenced. Developers would therefore be incentivised to build out as much of their scheme as possible within 3 years. There is provision for a further S106BA application to modify the obligation.

The applicant's viability appraisal concludes that:-

"The requirements for affordable housing should be removed in order to offer the best opportunity for the developer to deliver housing within the three year period which the Growth and Infrastructure Act will allow."

The DV has carried out an appraisal and concludes that given the value of the land, the infrastructure and abnormal costs (with regard to utilities and land decontamination), £404,000 other planning obligations, the build and development costs and a reasonable level

of developer profit (17.5% for the private sales; 6% on the affordable units). It is concluded that:-

“there may be grounds for a variance in the percentage of Affordable Housing agreed based on the evidence we have seen and that a zero rate may be appropriate. To confirm our opinion we completed an appraisal undertaken on a completely open market basis with no affordable housing provision but with the maintaining of the £404,000 S106 sums, and this resulted in a residual land value of £139,000 per acre which may still be below what we would accept as an acceptable benchmark land value for the site.”

It is noted that the applicants paid considerably more than the benchmark land value attributed to the site by the DV and that their agent has adopted a slightly lower level of profit than the DV.

On the basis of the above, it is considered that it would be unreasonable to insist on the provision of affordable housing in the current market. Whilst the concerns of Misterton PC and the Strategic Housing Manager are noted the need for affordable housing is not a material consideration in this instance.

However, in line with government advice, it is considered justifiable to limit this variation to 3 years (from the date of Committee's decision). This would enable the Council to reassess the situation in relation to any part of the site that remains un-built. Members are further reminded that there is provision for review of the obligations under an uplift clause in the original agreement. This would be unaffected and would allow the ongoing review of the remaining obligations.

RECOMMENDATION

Agree to vary the Section 106 agreement to suspend the requirement for affordable housing as part of this development for a period of 3 years from the date of the Committee's decision.

Justification

It has been satisfactorily demonstrated that the requirement for 10 affordable houses as part of this development would unreasonably affect the viability of the approved scheme in the current market.
