

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	250974
Site Address:	Sonning Golf Club, Duffield Road, Woodley, RG4 6GJ
Expiry Date:	24 July 2026
Proposal: Application to modify a Section 106 Planning Obligation to modify the requirements for the on-site affordable housing in the Section 106 Agreement dated 19.06.2017 relating to planning consent 161529 approved on 02.07.2018 (as allowed by appeal APP/X0360/W/17/3167142) and planning consent 200951 dated 16.12.2020.	

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP5 – Housing Mix, Density and Affordability
Wokingham Borough Local Plan Update (LPU)	H3 – Affordable housing
Other	Affordable Housing Supplementary Planning Document

PLANNING HISTORY

Application No.	Description	Decision & Date
161529	Outline application for the erection of 13 dwellings with associated highway works, public open space and landscaping. (Approval sought for Access).	Approved 02/07/18
200951	Application for the approval of reserved matters pursuant to outline planning consent 161529 for the erection of 13 dwellings with associated highway works, public open space and landscaping. Details of Layout, Appearance, Landscaping and Scale to be determined.	Approved 16/12/20

CONSULTATION RESPONSES

Internal

WBC Growth & Delivery (Planning Policy) – No comments received WBC Economic Prosperity & Place (Community Infrastructure) (Affordable Housing) – Would accept the findings of the Independent Viability Review
External
None

REPRESENTATIONS	
Parish/Town Council	• Claims that the development is not viable are questionable given house prices in Sonning • With the government actively encourage affordable housing it is unacceptable to propose making a reduced contribution in other parts of the Borough
Ward Member(s)	No comments received
Neighbours	10 comments from members of the public were received relating to the following matters: • The Affordable Housing should be built and other houses sold at a higher price to recoup costs • If not possible to build the Affordable Housing units then maybe no houses should be built and the site restored to its former use • Development has already commenced and so the developer should have made this revision before starting work • The developers would have been aware of the requirement for 40% affordable housing when they purchased the site from a previous developer • Affordable Housing is a requirement, not an option • The comments regarding making a profit seem questionable • There is little opportunity for affordable housing in Sonning, and this would be a lost opportunity if not provided Officer comment: See discussion in the report. However, in summary, policy CP5 of the Core Strategy only requires the provision of Affordable Housing where viable (author emphasis). The Council appointed an independent viability specialist to review the Applicant's calculations and assessments. After much review and discussion, the scheme (is it were to comprise of affordable housing) was found to be unviable. However, a late-stage review mechanism will be secured (discussion on this in the report). Officers are aware development had commenced before this deed of variation application was submitted, however, an applicant can submit an application at any point in time and the LPA has a duty to consider it. Furthermore, although the applicant had commenced work, they were not in breach of

	<i>their original s106 obligation relating to affordable housing as that obligation was required to be provided on site (in the case of the affordable dwellings) and the contribution due prior to first occupation; the development had not reached that stage yet.</i> • Hours of work condition not being adhered to • TPO trees are being damaged/ removed • Removal of neighbouring hedge and screening trees Officer comment: <i>The above do not relate to the considerations under this application. Disturbances or contraventions should be reported to the Planning Enforcement Team for investigation.</i>
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APPRAISAL

The Deed of Variation seeks to modify the S106 agreement for the application ref: 161529 for outline planning permission for 13 dwellings under section 106A of the Town and Country Planning Act 1990.

As part of the permission, a 40% Affordable Housing contribution was secured in line with policy CP5 of the Wokingham Core Strategy Local Plan which equated to 5.2 dwellings. The 40% contribution was secured in the form of 5 on site dwellings (3 x 3 bedroom dwellings social rent tenure and 2 x 2 bedroom dwellings shared ownership tenure) and a 'top up' off- site financial contribution of £22,344.06 (index linked) which equated to the 0.2 units.

Subsequently, the applicant applied for Reserved Matters and this was given application reference 200951. As part of the Reserved Matters, the S106 of the outline permission was varied via a deed of variation. As part of the deed of variation, the list of Registered Providers (RP) that the applicant was required to approach to take on the affordable units was updated.

Since then, the developer (who is not the same developer as that which submitted the planning applications) advised that they have made efforts to get these 5 dwellings secured by an RP listed in the S106 agreement for 200951. They had previously received 2 offers from RPs however with these offers, they claimed the scheme is unviable. A viability report was then prepared for the Council's review and the with the applicant seeking to modify their s106 affordable housing obligation by way of its removal, on the basis that the scheme is not viable if it were to remain included.

The Council appointed an independent viability consultant (Kempton Carr Croft) to review the applicant's viability appraisal. Several rounds of review occurred, however the final position presented to the Council from the consultant was as follows:

	100% Private scheme (Appendix B)	Policy Compliant scheme (Appendix C)
Gross Development Value,	£14,510,080	£12,759,860
Total costs (Inc. construction, land acquisition fees, professional fees, disposal fees, CIL, S106, finance and profit)	£14,687,601	£13,758,287
Deficit	-£177,521	-£998,427
VIABLE/UNVIALE	UNVIALE	UNVIALE

As can be seen, two scenarios were considered in the appraisal by the independent specialist.

It is demonstrated, and summarised within the table above, that the proposed policy compliant scheme with an on-site affordable housing provision of 40% (i.e. plots 9-13 plus an off-site contribution in lieu for the remaining 0.2 unit of £27,997) is unviable, with a deficit of -£998,427, equating to a reduced developer's profit of 7.58%.

If the proposed scheme were offered for 100% private sale then the scheme would be significantly more viable, however, would remain in deficit by -£177,521 with a slightly reduced developer's profit of 16.28% of GDV, meaning that this is below the target developer's profit level of 17.5%.

As such, based on both the policy compliant and 100% private scheme, the Council have been informed that the scheme would not be viable to provide any level of affordable housing, either on site or as an off-site contribution in lieu.

However, given the proposed scheme's viability on the basis of a 100% private sale scheme is only just below the target profit level it was recommended by the viability specialist that a 'Late Stage Viability Review' mechanism is included within the Section 106 agreement in order that the viability of the scheme can be re-tested once approximately 75% of the development has been sold and actual gross development values and build costs will be known.

The Applicant agreed to this late stage review mechanism, to re-test the viability of the scheme upon occupation of the 10th dwelling. At that point, if the scheme is concluded to be viable to provide an affordable housing contribution, it will be required to do so, with the amount to be calculated using a formulaic approach, upto the capped amount of £820,906 (index linked). This maximum amount has been calculated as the maximum amount required in accordance with the Wokingham Borough Council Affordable Housing SPD.

As such, the original s106 will be updated via a deed of variation to delete the original Schedule 1 (On and Off-Site Affordable Housing contribution) and instead replace with this late stage review mechanism.

Legal Test under Section 106A

Section 106A of the Town and Country Planning Act 1990 provides a mechanism for modifying a planning obligation.

Under s106A(6), a planning obligation may:

1. Continue without modification, where it still serves a useful purpose;
2. Be discharged, where it no longer serves any useful purpose; or
3. Be modified, where the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modification.

In this case, point 3 applies. The Affordable Housing obligation in principle still serves a useful purpose and is in line with policy CP5 of the Core Strategy. However, it has been demonstrated and independently verified to the Council that without modification to the obligation, it would make the scheme unviable in its current form. The Affordable Housing SPD and policy CP5 make allowances for schemes not to provide affordable housing where it can be demonstrated the scheme is not viable.

Furthermore, in this case, the obligation is being modified to incorporate a late stage review where the viability of the scheme can be tested at a later date, to ensure that if the scheme becomes more profitable than expected, then an affordable housing contribution will be due. As such, the obligation (as amended to include the late stage review only) would still serve a purpose equally well given the circumstances that the scheme has presently demonstrated it would be not viable with the affordable housing provision it was originally required to provide.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

Conditions agreed:	Not required
Recommendation:	Approve the deed of variation to replace schedule 1 of the s106 agreement associated with planning permission 161529 with a late stage review mechanism. S106A (Deed of Variation) completed 15 th July 2026
Date:	15 th July 2026

Recommendation agreed by: (Authorised Officer)	
Date:	20/07/26