

S106 Refresh Deed of Variation Briefing Note

Princess Royal Barracks

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1 INTRODUCTION

- 1.1 The intention of the proposed Refresh Deed of Variation to the s106 Agreement associated with Hybrid Planning Permission 12/0546 (as amended) is to make a final suite of minor amendments to the Agreement to assist the signatories, Surrey Heath Borough Council, Surrey County Council and the Secretary of State for Defence, in the timely and practicable delivery of the remainder of the approved development at Princess Royal Barracks, Deepcut.
- 1.2 The suggested minor amendments fall into the following categories:
- Rectifying minor inconsistencies in the original s106 agreement compared to the approved Hybrid development in 12/0546 and detailed planning permissions granted since the original agreement was entered in to
 - Learning from Phase 1 and Phase 2 delivery to ensure practical delivery of the remainder of the approved development in a timely manner before the Hybrid Planning Permission expires in April 2024
 - Supporting the marketing of the remaining land parcels in accordance with the recently approved Affordable Housing Strategy and seeking to ensure all parcels can be sold before expiry of the Hybrid Planning Permission in April 2024.
 - Securing Help to Buy funding eligibility for future residents on the site
- 1.3 It is the principle of the changes are sought at this time. The final obligation wording is proposed to be agreed during the formal agreement drafting stage, post resolution to grant.

2 CORRECTING INCONSISTENCIES IN THE AGREEMENT

2.1 The s106 was original agreed in 2014. Since that time there have been detailed planning permission granted for:

- Phase 1 Infrastructure
- Phase 2a and 2b Residential
- Phase 3a Primary School and Nursery
- Phase 3c Public House
- Phase 4a Residential

2.2 The majority of these works are approved slightly different than envisaged on the original indicative approved plans, which is typical in terms of Reserved Matters Planning applications compared to the original Outline Planning Permission.

2.3 The s106 Refresh takes into account the detailed approvals to date and makes associated minor amendments to correct the s106 accordingly and support the compliant delivery of the remainder of works.

2.4 Amendments in this category are principally to do with regularising the permission based on permissions granted since the original s106 agreement was entered in to. All of the above permissions were presented and approved by Planning Committee, so these changes are not proposing anything that has not already been approved by Planning Committee. As a result, they should not present any cause for concern.

3 LESSONS LEARNED

- 3.1 Working with the Council and County Council on the practical delivery of the scheme it has become clear to all parties that the requirements are particularly onerous and potentially undermining the successful delivery of the remainder of the development prior to expiry of the planning permission in April 2024.
- 3.2 A good example is the Mindenhurst Road (The Spine Road). This road has been provided and is in use now, but technically has not been 'delivered' as per the requirements of the s106 drafting. Accordingly no more than 230 dwellings should be constructed and occupied on site unless the wording is altered. This is a requirement that will soon be breached, which is disappointing and also unnecessary when the spirit and intention of the agreement has been complied with and the road is physically available and in use. The obligation is to ensure that the work is delivery in time, which has been achieved. This is the same principle as for the other amendments of this type which are sought.
- 3.3 Changes in this category are to remove such anomalies and make it easier to deliver the remaining works onsite without removing any control or power from the Council or County Council. This category of changes also includes the removal of time triggers in certain instances in order to rely on the construction or occupation activity, which is what causes the need for the requirement rather than time expended since the development originally commenced.
- 3.4 These amendments should not be any concern as the proposed drafting still ensures the timely delivery of the required works to support the new residents.

4 SUPPORTING THE SALE OF RESIDENTIAL PARCELS

- 4.1 The s106 was originally drafted based on the typical scenario where the developer of the residential homes is also responsible for the provision of the associated infrastructure to support such homes. This is not how the redevelopment of Princess Royal Barracks is proceeding. The Ministry of Defence (MoD) is responsible for the delivery of site infrastructure and the residential developers only responsible for the development of the residential plots.
- 4.2 The s106 as drafted is unfortunately now providing a barrier to the successful sale of residential land and subsequent delivery of dwellings before the expiry of the planning permission.
- 4.3 In order to proceed with the completion of land purchases the developers are requiring no obstacles outside of their control that would block full occupation of their parcels by future residents. As a reminder, in accordance with the recently approved Affordable Housing Scheme, the MoD is aiming to market all sites except Phase 6d between now and May 2022. An Affordable Housing review mechanism will then be undertaken to establish whether Phase 6d should include more than 15% Affordable Housing. We are proposing to amend some drafting in order to support the land sales programme and seek to protect land value in order to increase prospects of successful additional Affordable Housing review mechanism.
- 4.4 These new triggers are backstop dates rather than targets. For example, with off-site highways triggers we are proposing that the works begin within 6 months of entering into a Highways Agreement. In terms of on-site works, the MoD has entered into a Planning Performance Agreement with the Council to submit all remaining Reserved Matters applications for none residential areas between now and mid-2022. At that point the entire on-site infrastructure works to support residential occupation will be approved and able to be implemented.
- 4.5 Without such changes the success of the residential land sales process and subsequent full completion of the development before the expiry of the Hybrid Planning Permission will be severely undermined.
- 4.6 Examples of changes in this category include the phased delivery of the Southern SANGS Land. As proposed, there will always be enough SANGS land available to support the level on onsite occupations, but it is more flexible and supportive of residential delivery than requiring all the SANGS land to be available before any occupation.
- 4.7 These amendments have been discussed in depth with the Council, County Council and relevant statutory consultees such as Natural England and should therefore not present any cause for concern.

5 HELP TO BUY FUNDING

- 5.1 The Help to Buy scheme offers an equity loan where the government lends first-time buyers money to purchase a newly built home. The number of people buying a home through the Help to Buy scheme is at an all-time high. New figures released on 13 August 2021 show that from 1 April 2020 to 31 March 2021 over 55,000 households bought their home with the support of a Help to Buy: equity loan.
- 5.2 The residential development market is highly dependent on the Help to Buy scheme. Where a site is not eligible for the scheme it can prevent it from selling and can prevent first-time buyers from purchasing property. Lack of eligibility can also make any dwellings already constructed unaffordable to first-time buyers.
- 5.3 The eligibility requirements for the scheme have recently altered. Residential developments need to demonstrate compliance with pre-occupation planning conditions and s106 obligations in order for funds to be allocated to purchasers. With the existing s106 drafting, current parcels and future parcels at Deepcut may not be eligible for funding. This would represent a major disadvantage to the desirability of the development to potential homeowners and the residential developer market.
- 5.4 Changes proposed in this DoV would allow existing dwellings provided on site to be eligible for the Help to Buy scheme, and support future parcels being applicable. The former will support first time buyers ready to complete purchases and move on to the site. The latter will greatly enhance desirability and demand for the remaining phases to future homeowners and the residential development market. This will greatly support the successful marketing of the remaining land parcels, and enhance viability to support additional affordable housing provision via the review mechanisms.
- 5.5 The s106 agreed in 2014 could not have anticipated the Help to Buy requirements in 2021. These changes are to reflect the new requirement and ensure that Deepcut is eligible for future homeowners. Accordingly, such changes should not be any cause for concern

6 SUMMARY

- 6.1 The s106 Deed of Variation is proposed to represent the final suite of changes to the s106 Agreement to facilitate delivery of the remainder of the Hybrid Planning Permission before its expiry in April 2024. The principle of the changes is relatively simply, but as the s106 is a legal document and drafted accordingly, the quantum of amendments needed to capture the changes correctly can look large and of more consequence than the actual minor effect of the proposal.
- 6.2 The proposal regularises the agreement in accordance with detailed planning permissions granted to date by Planning Committee. These are essential changes to avoid inconsistencies in approvals. The proposal would also support the site being eligible for the Help to Buy scheme, support successful marketing of the site in accordance with the recently approved Affordable Housing Strategy, and protect value to in terms of the future Affordable Housing review mechanisms.
- 6.3 Also within the proposal is the amendment to the proposed Frimley Green junction to address resident concerns expressed regarding the originally approved scope of works. This fits within the category of changes within the scope of supporting land sales. Currently, future land sales are unlikely to be successful as occupation could not happen until the previous traffic light junction is implemented. Approval would allow land sales and allow a scheme supported by residents to be implemented instead. It will also allow time for the common land process to be undertaken to allow the new preferred scheme to be implemented. This process can begin upon successful resolution of the s106 Refresh Deed of Variation.
- 6.4 Overall, the proposal represents no loss of control by the Council or County Council and has support from statutory consultees, whilst supporting all of the benefits to the development outlined above. The Council, County Council and MoD have spent several months reviewing all proposed amendments in detail to ensure they are correct. Accordingly, we hope that this proposal is something the Council can fully support in order to support the successful delivery of the development in accordance with the overarching vision and aspiration for the site, as originally established in the Deepcut SPD.