

HEWEB – Hedge End, West End and Botley Local Area Committee Monday 10 October 2022.

Application Number: V/22/93385
Case Officer: Liz Harrison
Received Date: 22 July 2022
Site Address: Land North West of Winchester Road, Boorley Green, Hampshire, SO32 2BX
Applicant: Miller Homes
Proposal: Proposed Deed of Variation to S106 legal agreement dated 16 June 2016 associated with outline permission O/15/75953, as amended by X/19/84943, to amend the triggers for the completion of the Highways Works Agreement for the Shamblehurst Lane North Works and the Winchester Road/Bubb Lane/Snakemoor/Botley Road Roundabout Works to prior to the occupation of no more than 50 dwellings; and for completion of the Shamblehurst Lane North Works and Bus Access Restrictor Works to prior to the occupation of no more than 350 dwellings; and to add a trigger for the provision of an accessible Pedestrian and Cycle Route from Winchester Road to Shamblehurst Lane North prior to occupation of no more than 200 dwellings and a trigger for the completion of an on-site Bus, Pedestrian & Cycle Route prior to the occupation of no more than 350 dwellings.

Recommendation: **AGREE TO THE PROPOSED AMENDMENTS TO THE ORIGINAL S106 LEGAL AGREEMENT**

Report:

1. This application has been referred to Committee by Cllr House, Cllr Garton and Cllr Kinloch.

Relevant Planning History

2. The relevant history in relation to this site is as follows:
 - **O/15/75953**– Outline application for up to 680 residential units, mixed use comprising of retail and/or community/healthcare use, land for two-form entry primary school, formal and informal open space and sports pitches. New access off Winchester Road, associated on-site roads, infrastructure and footpaths/cycleways. Detailed matters for determination access (all other matters reserved - scale, appearance, landscaping and layout). This application is the subject of an Environmental Impact Assessment, is a departure from the

Development Plan, is Major Development and affects the setting of a Right of Way – allowed on appeal 30.11.16

- **RM/17/81628** - Reserved matters application (pursuant to outline planning permission O/15/75953 which was subject to an Environmental Impact Assessment) for Phase 1 scheme equating to 301 residential dwellings with associated parking, road infrastructure, landscaping, open space, surface water drainage networks, on-site waste water treatment works, provision of additional vehicular parking for Hedge End Railway Station and bus only connection to Shamblehurst Lane North - approved 16.1.19
- **X/18/82986** - Variation of Condition 12 of outline planning permission (O/15/75953) to enable foul drainage to be carried out in accordance with either the approved Flood Risk Assessment (Dec 2014) or details set out in the Foul Sewerage Assessment (March 2018 ref M380-Doc 05) – granted 6.11.18
- **F/18/83837** - Upgrades to an existing farm access to create a left-turn only junction onto Winchester Road, providing dedicated vehicular access to service an adjacent Waste Water Treatment Works and farmland, as well as dedicated pedestrian and cycle access and all associated works, on land to the north west of Boorley Green - granted 25.3.19
- **RM/18/84466** - Reserved Matters application (pursuant to outline planning permission O/15/75953 which was subject to an Environmental Impact Assessment) for Boorley Gardens Phase 2 equating to 143 dwellings with associated parking, landscaping, open space and works, including diversion of a drainage ditch. (Details relating to appearance, landscaping, layout and scale) - approved 9.4.21
- **X/19/84943** - Variation of condition 3 of outline planning permission O/15/75953, as amended by X/18/82986, to allow revisions to the Parameter Plans for Movement & Access, Landscape, Density, Building Heights and Land Use - granted 1.3.21
- **X/19/85533** - Variation of conditions 1 (Reserved Matters Details), 4 (Reserved Matters Applications), 8 (Arboricultural Method Statement and Tree Protection), 10 (Construction Method Statement & Construction Environmental Management Plan), 11 (Surface Water Drainage), 13 (Roads and footways), 16 (Noise Assessment), 18 (Contaminated Land), 21 (Implementation of Employment & Skills Management Plan), 23 (Tree/shrub clearance during bird breeding season), 24 (Japanese Knotweed), 25 (Moorgreen Stream/Ford Lake Brook buffer), 26 (Archaeological Assessment & Mitigation), 27 (Archaeological Report), 28 (Energy Efficiency & Water Consumption), 34 (Build Details & Measures) and 37 (Noise assessment of on-site waste water treatment works) of outline planning permission

O/15/75953, as amended by X/18/82986 and X/19/85533 to enable phased approach to development - granted 27.8.20

- **RM/19/86658** - Reserved Matters application (pursuant to outline planning permission O/15/75953 which was subject to an Environmental Impact Assessment) for Boorley Gardens Phase 3 equating to development of 236 residential dwellings with associated parking, landscaping and open space. (Details relating to appearance, landscaping, layout and scale) – approved 5.4.22
- **X/20/87593** - Variation of conditions 1 (Reserved Matters Details), 4 (Reserved Matters Applications), 8 (Arboricultural Method Statement and Tree Protection), 10 (Construction Method Statement & Construction Environmental Management Plan), 11 (Surface Water Drainage), 13 (Roads and footways), 16 (Noise Assessment), 18 (Contaminated Land), 21 (Implementation of Employment & Skills Management Plan), 23 (Tree/shrub clearance during bird breeding season), 24 (Japanese knotweed), 25 (Moorgreen Stream/Ford Lake Brook buffer), 26 (Archaeological Assessment & Mitigation), 27 (Archaeological Report), 34 (Build Details & Measures) and 37 (Noise assessment of on-site waste water treatment works) of outline planning permission O/15/75953, as amended by X/18/82986 and X/19/85533 to enable phased approach to development – granted 27.8.20
- **F/20/88811** - Creation of a new shared footpath / cycleway linking the southern end of the approved Boorley Gardens development (O/15/75953) to the existing footpath / cycleway on the western side of Winchester Road - currently under consideration.
- **V/21/89755** - Proposed Deed of Variation to S106 legal agreement dated 16 June 2016, associated with outline permission O/15/75953, as amended by X/19/84943, to amend the triggers for delivery of the primary school site; enable flexibility in the spending of the primary education contribution; and enable the secondary education contribution to be spent on an alternative secondary school project – currently under consideration
- **X/21/91994** - Variation of condition 1 (approved drawings) of reserved matters application RM/17/81628 (pursuant to outline planning permission O/15/75953) for Phase 1 to allow revisions to the house types on plots 1-102, excluding plots 3, 4, 18, 35-40 and 69 – currently under consideration

The site and its surroundings

3. The Boorley Gardens development site is located within the parish of Botley and lies to the east of the Borough. The overall site is a large, irregular shaped site that is approximately 45 hectares in size and lies to the west of Winchester Road in Boorley Green and to the north east of the Portsmouth to London Waterloo railway line. The site adjoins Shamblehurst Lane North in

the western corner, with Ford Brook/Moorgreen Stream forming the northern boundary of the site. Botley Footpath no. 1 runs through the site from Winchester Road to Shamblehurst Lane North. The village of Boorley Green lies to the east and south east of the site, with Hedge End railway station located to west of the site and the settlement of Hedge End to the west on the other side of the railway line.

4. Development has recently commenced on site but prior to that, with the exception of the buildings at Park Farm, the site was undeveloped and consisted of pasture and arable farmland with various hedgerows and tree belts on field boundaries and along the public right of way. The northern part of the site is relatively flat, but it rises up in the southern part of the site.
5. The site is not located within a Conservation Area, nor are there any listed buildings or designated sites of nature conservation interest within the site.

Description of application

6. The application seeks approval of a Deed of Variation to amend some of the triggers for the obligation of the S106 legal agreement associated with the original outline permission as set out below:

Existing Obligation	Current trigger	Proposed trigger
<i>Paragraph 2, Part 1, Schedule 7 - Enter into S278 highways agreement for Shamblehurst Lane North Works and Winchester Road/Bubb Lane/Snakemoor/Botley Road Roundabout works</i>	Prior to 1 st occupation	Prior to 50 th occupation
<i>Paragraph 6, Part 1, Schedule 7 - Complete Shamblehurst Lane North Works</i>	Prior to 150 th occupation	Prior to 350 th occupation
<i>Paragraph 1, Part 2, Schedule 7 - Submission and approval of bus access restrictor proposals by HCC</i>	Prior to commencement	Prior to 1 st occupation
<i>Paragraph 3, Part 2, Schedule 7 - Complete bus access restrictor</i>	Prior to 150 th occupation	Prior to 350 th occupation

works		
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7. In addition to these requested changes the following new obligations have been negotiated and these now form part of the proposed Deed of Variation:

New Obligation	Current trigger	Proposed trigger
Provision of an accessible pedestrian and cycle route from Winchester Road to Shamblehurst Lane North (route to be agreed)	n/a	Prior to 200 th occupation
Provision of bus route and pedestrian and cycle route through the site from Winchester Road to Shamblehurst Lane North	n/a	Prior to 350 th occupation

8. The Deed of Variation will need to include some other subsequent amendments to the wording of the original S106 legal agreement to reflect the revised triggers.
9. Given that the proposed Deed of Variation does not seek to amend the type, form, or size of development that has already been approved it is considered that the proposals do not need to be reconsidered under the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 or The Conservation of Habitats and Species Regulations 2017 (as amended) and the previous assessments remain valid.

Consultation Responses (summarised)

10. **EBC Sustainable Transport Officer** – The delivery of the ped/cycle route between Shamblehurst Lane North and Winchester Road should be secured within the S106 agreement.
11. From recent conversations with HCC I understand that there is a realistic prospect of a bus route serving the site. The required infrastructure should be delivered in advance of this route coming into operation. The proposed triggers for the provision of the ped/cycle path from Winchester Road to Shamblehurst Lane North (prior to 200th occupation) and bus route through the site from Winchester Road to Shamblehurst Lane North (prior to 350th occupation) appear reasonable and are therefore acceptable as it is unlikely that the service will commence in advance of these thresholds.
12. **HCC Highways** – The proposed amendments are considered acceptable. Bus operators have been approached and it appears that there will be

demand for a route to run through the site. While this is a commercial decision for operators, it is anticipated this route could run from completion of the route through the site and the bus access onto Shamblehurst Lane North post 350 occupations.

13. **Botley Parish Council - Object.**

- The trigger for completion of the Shamblehurst Lane North Works and Bus Access Restrictor Works is considered too large. The committee would like this reduced to the occupation of no more than 150 dwellings.
- The committee would like to reduce the trigger for the completion of an on-site Bus, Pedestrian & Cycle Route prior to the occupation of no more than 150 dwellings.

Given these crucial links to access public transport networks, the committee feel the overall triggers are too lengthy.

14. **Hedge End Parish Council – No objection.**

Representations Received

15. 3 letters of objection on grounds of:

- Original figures for completion of works calculated for a reason
- Overdevelopment of area, resulting in lack of green spaces
- Detrimental ecological impact
- Impact on residential amenities due to asbestos removal from farm barns and dust
- Green buffer to neighbouring properties should be provided
- Overlooking, loss of privacy, visually intrusive

Designations Applicable to Site

16. The following designations are applicable to the site

- Within HRA Screening Area for Solent & Southampton Water SPA & SAC, River Hamble SAC and New Forest National Park
- Solent Recreation Disturbance Zone
- Public Right of Way

The Development Plan

17. The Development Plan for the borough comprises the Hampshire Minerals and Waste Plan (October 2013) and the Eastleigh Borough Local Plan (2016-2036).

Hampshire Minerals and Waste Plan (2013)

18. The site is not a Safeguarded Site nor within a Minerals Consultation Area therefore no policies from the Hampshire Minerals are relevant to this application.

Eastleigh Borough Local Plan 2016-2036

19. The most relevant policies to the determination of this application are:
- S1 – Delivering sustainable development
 - S2 – Approach to new housing
 - S3 – Location of new housing
 - S11 – Transport Infrastructure
 - S12 – Footpaths, cycleways and bridleways
 - DM13 – General development criteria – transport
 - DM38 – Funding infrastructure
 - BO6 – Junction Improvement - Botley Road / Bubb Lane roundabout (Denham's Corner)

Supplementary Planning Documents

20. Relevant documents are:
- Quality Places (November 2011)
 - Planning Obligations (July 2008)

National Planning Policy Framework 2021

21. At a national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The NPPF states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development.
22. The three identified dimensions of sustainability should to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development appropriately responds to the different opportunities for achieving sustainable development in different areas.

Planning Practice Guidance

23. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Policy Commentary

24. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require planning applications to be determined in accordance with the Development Plan

(policies detailed above) unless material considerations indicate otherwise. The relevant policies and guidance combine to form the criteria against which this application will be assessed.

Principle of the Development

25. Outline planning permission O/15/75953 for up to 680 dwellings and associated uses and facilities was allowed on appeal in November 2016. The principle of this development has therefore been established and cannot be reconsidered as part of this application. The S106 legal agreement associated with the outline permission requires a number of obligations to be met in relation to the provision of on and off-site facilities and infrastructure and the payment of various financial contributions in order to provide for the needs of the future residents and mitigate for the impact of the development.

26. The proposed Deed of Variation does not seek to remove any of the obligations set out in the existing S106 legal agreement but does seek to amend some of the triggers in relation to the timing of the provision of the following elements:

- Shamblehurst Lane North Works
- Winchester Road/Bubb Lane/Snakemoor/Botley Road Roundabout works
- Bus Access Restrictor

A summary of these works is provided in paragraphs 32-34 below.

27. In addition, following negotiation with officers at EBC and HCC, it also seeks to add triggers for the provision of the following obligations:

- Provision of an accessible pedestrian and cycle route from Winchester Road to Shamblehurst Lane North
- Provision of final bus route and pedestrian and cycle route through the site from Winchester Road to Shamblehurst Lane North

A summary of these works is provided in paragraphs 36 and 37 below.

28. The proposed Deed of Variation does not seek to alter the extent of development and associated infrastructure to be provided. As such the principle of the development cannot be reconsidered as part of this application, only the suitability of amending the provisions of the S106 legal agreement as set out above.

29. It is noted that some of the third party representations received relate to the principle of developing this site and the impact it would have on ecology and residential amenities. However, these matters were considered at the outline and reserved matters stages and do not relate to the nature of the proposed changes to the S106 legal agreement therefore they cannot be reconsidered as part of this application.

Amended obligations

30. As set out above the proposed Deed of Variation seeks to amend the triggers for the following obligations in the S106 legal agreement associated with the original outline permission:

Existing Obligation	Current trigger	Proposed trigger
<i>Paragraph 2, Part 1, Schedule 7 - Enter into S278 highways agreement for Shamblehurst Lane North Works and Winchester Road/Bubb Lane/Snakemoor/Botley Road Roundabout works</i>	Prior to 1 st occupation	Prior to 50 th occupation
<i>Paragraph 6, Part 1, Schedule 7 - Complete Shamblehurst Lane North Works</i>	Prior to 150 th occupation	Prior to 350 th occupation
<i>Paragraph 1, Part 2, Schedule 7 - Submission and approval of bus access restrictor proposals by HCC</i>	Prior to commencement	Prior to 1 st occupation
<i>Paragraph 3, Part 2, Schedule 7 - Complete bus access restrictor works</i>	Prior to 150 th occupation	Prior to 350 th occupation

31. The extent of these works is not being reconsidered as part of this application but for clarity they are summarised below. A copy of the original S106 legal agreement including any plans showing the relevant works can be found [here](#).

Shamblehurst Lane North Works

32. The approved development includes an access from Shamblehurst Lane North into the development to serve a new car park for station users and provide access for buses. Vehicles other than buses will be prevented from travelling further into the site by a bus access restrictor. In addition to the creation of this access off Shamblehurst Lane North the S106 legal agreement requires improvements to be made to Shamblehurst Lane North in the vicinity of the bridge over the railway. The in-principle drawing included within the S106 legal agreement shows these works to include road widening,

the creation of a 1.8m footway and the installation of traffic signals on either side of the bridge.

Winchester Road/Bubb Lane/Snakemoor/Botley Road Roundabout works

33. The in-principle drawing included within the S106 legal agreement shows these works to include the enlargement of the roundabout and the widening of the approaches on the northern arm (Botley Road) and western arm (Bubb Lane). It should be noted however that the Deed of Variation does not seek to amend the trigger for when these works are to be provided (300 occupations), only the time by which the associated S278 highways agreement needs to be completed.

Bus Access Restrictor

34. This relates to works to restrict road access to through traffic from within the site to Shamblehurst Lane North (and vice versa), except for buses. Hampshire County Council (HCC) as the Local Highway Authority are currently anticipating that this would be achieved through design, a Traffic Regulation Order and signage, with the possibility of installing Automatic Number Plate Recognition (ANPR) if required to ensure enforcement. The final details are to be secured via the S106 legal agreement.

Additional obligations

35. In addition to the amendments to the triggers as set out above, following negotiation by officers at EBC and HCC the proposed Deed of Variation now includes for the addition of the following obligations:

New Obligation	Current trigger	Proposed trigger
Provision of an accessible pedestrian and cycle route from Winchester Road to Shamblehurst Lane North (route to be agreed)	n/a	Prior to 200 th occupation
Provision of bus route and pedestrian and cycle route through the site from Winchester Road to Shamblehurst Lane North	n/a	Prior to 350 th occupation

Accessible pedestrian and cycle route from Winchester Road to Shamblehurst Lane North

36. As the proposed amendments to the provision of the Shamblehurst Lane North and Bus Access Restrictor would delay the provision of the bus through route, alongside which a segregated pedestrian and cycle route is shown on the plans approved at reserved matters stage for Phase 1, this new obligation

would ensure that a pedestrian and cycle route would have to be provided at an earlier stage to ensure connectivity to Hedge End train station. The precise route of this is unknown at present as it would depend on the progress of development on site. It could be a temporary route or a route along the alignment of the spine road through Phase 1, so the Deed of Variation would also require details of the route to be submitted and agreed.

Bus route and pedestrian and cycle route from Winchester Road to Shamblehurst Lane North

37. This additional obligation relates to the provision of the permanent route for buses, pedestrians and cycles through the site. While the original S106 legal agreement includes triggers for various elements of the route it does not include a trigger for when the full route is to be provided and available for use. This obligation therefore provides certainty as to the timing of the provision of the route. This obligation would relate to the provision of the permanent route, hence, in relation to the pedestrian and cycle route, is in addition to the other new obligation as that could be met by a temporary route that is subsequently removed.

Consideration of proposed amendments

38. The developer has requested that the triggers for the provision of these works are amended to ensure consistency between the triggers for the different elements of work in that part of the site. The station user car park, accessed via the junction with Shamblehurst Lane North is required to be completed prior to the 350th occupation.
39. When the outline permission was granted on appeal, with the triggers included in the original S106 legal agreement, it was anticipated that development would start with Phase 1 at the northern part of the site, through which the bus route is proposed to run. (An extract of the phasing plan is included at the end of this report). However, due to land ownership issues development commenced within Phase 2 in the centre of the site, and the developers' anticipated build order is for development to continue within Phases 2 and 3 within the central part of the site, before progressing to development in Phase 1, within which the main spine road providing the bus route through the site is located. The anticipated build sequence is such that 4 sub-phases within Phases 2 and 3 (labelled as 2B, 2C, 3B and 3C on the phasing plan) providing just under 175 dwellings would be commenced before development reaches Phase 1 in the northern part of the site. As such the triggers related to the provision of works at the northern end of the site for Shamblehurst Lane North and the Bus Access Restrictor prior to the 150th occupation are not now in line with the anticipated build out, with the early occupations taking place in the centre of the site. For ease of reference when looking at the phasing plan the approximate location of the Bus Access Restrictor would be at the southern end of the small sub-phase labelled as 1A.

40. In consultation with HCC it is considered that, due to the intended phasing of the development, the proposed amendments to the original triggers are acceptable in principle in relation to those works.
41. There were concerns however about the knock-on effects these amendments would have on the timing of the provision of pedestrian and cycle links through the development to Hedge End station for both the residents of Boorley Gardens and existing residents of Boorley Green, including Boorley Park.
42. It should be noted that the original S106 legal agreement does not include a specific obligation to provide a pedestrian and cycle route through the site by a specific time, although the plans approved at reserved matters stage for Phase 1 do show a segregated pedestrian and cycle route running along the main spine road running through the phase.
43. In addition Schedule 12 of the original S106 legal agreement does require the developer to undertake necessary actions to enable the use of Botley Footpath No.1 by cyclists prior to first occupation, which is anticipated to be October 2022. The developer has indicated that they intend to meet this obligation by giving permissive rights for cyclists to use the route as well as pedestrians.
44. However, while the surface of the public right of way is to be improved with a financial contribution secured from the Boorley Park development, the intention is that this remains a leisure route. As such, given the proposed changes to the triggers for the other works, it remains important to secure earlier provision of a specific pedestrian and cycle route. The developer was therefore asked, and has agreed, to include an additional planning obligation to provide a pedestrian and cycle route from Winchester Road to Shamblehurst Lane North prior to the 200th occupation. The obligation would also require the alignment of the route to be agreed as it is not currently known if it would follow the alignment of the permanent route approved at reserved matters stage or would need to be a temporary route.
45. As mentioned above the original S106 legal agreement does not include a specific trigger for the provision of a pedestrian and cycle route through the site, and neither does it include a trigger for the provision of a useable bus route. To strengthen the obligations and provide certainty as to when the bus route would be available, the developer was also asked, and has agreed, to amend the Deed of Variation to add in a planning obligation to provide a bus route and pedestrian and cycle route through the site from Winchester Road to Shamblehurst Lane North prior to the 350th occupation. This obligation would relate to the provision of the permanent route, hence, in relation to the pedestrian and cycle route, it is in addition to the other new obligation as that could be met by a temporary route that is subsequently removed when the permanent route becomes available.
46. HCC have approached bus operators and have confirmed that there appears to be demand for a bus route to run through the site. There is no requirement

in the existing S106 legal agreement for the development to fund the provision of a bus service for the site, only to provide infrastructure to enable a bus service to be routed through it. As such any decision to run a bus route through the site would be a commercial decision for the operators. Whilst a bus service would not operate through the site until after the 350th occupation under these proposals, it should be noted that the Bluestar 3 service currently runs along Winchester Road and through Boorley Park, with bus stops by the Pear Tree pub, at the Oatlands Road / Winchester Road junction and at the western end of Kingsman Drive in the Boorley Park development. This bus service would be in walking distance for the residents of Boorley Gardens and provides a service to Southampton, Hedge End, Botley, Fair Oak and Eastleigh. Train services from Hedge End station would also be in walking and cycling distance for residents, initially via the public right of way and subsequently via the specific pedestrian and cycle route. It is considered therefore that the residents in the early stages of the development would still have access to public transport, prior to the permanent bus, pedestrian and cycle route through the site being provided, which would ultimately strengthen the opportunities for sustainable travel.

47. Given the intended phasing of development across the site, which differs to that anticipated at the time the original S106 legal agreement was drafted, and with the additional obligations referred to above, it is considered that the proposed Deed of Variation is acceptable and would not have a significantly detrimental impact on the building out of the development, the provision of associated infrastructure, or its impact on the surrounding area, sustainable travel, or the local highway network. The proposal is therefore considered to be in accordance with local plan policies. There is no change to the extent of the previously secured infrastructure provision and improvements associated with the development, but some change to the timing of these elements to reflect the phasing of the development, together with new obligations to provide certainty over the timing of provision of the infrastructure required to support and encourage sustainable modes of transport.

Sustainable development

48. The NPPF seeks to achieve sustainable development, with three over-arching objectives – economic, social and environmental. The outline application considered matters of sustainability. The Secretary of State (SoS) concluded that the development was contrary to the then local plan, would harm the landscape and result in the loss of countryside, but there would be only very limited impact on views outside the site and its immediate surroundings. In addition at the time of that decision, the Council was unable to demonstrate a 5-year housing land supply and the SoS concluded development would bring substantial benefits in terms of additional open market and affordable housing, for which there were substantial shortfalls; green infrastructure; and improved pedestrian and cycle links and connectivity, including to the railway station. As such the Secretary of State concluded that the proposals would amount to sustainable development.

49. For the reasons set out above it is considered that the proposed Deed of Variation does not significantly alter the overall development proposals such that they affect the sustainability of the development. The development would therefore be in accordance with the provisions of the NPPF.

Climate Change

50. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.
51. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.
52. The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

Equalities Implications

53. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

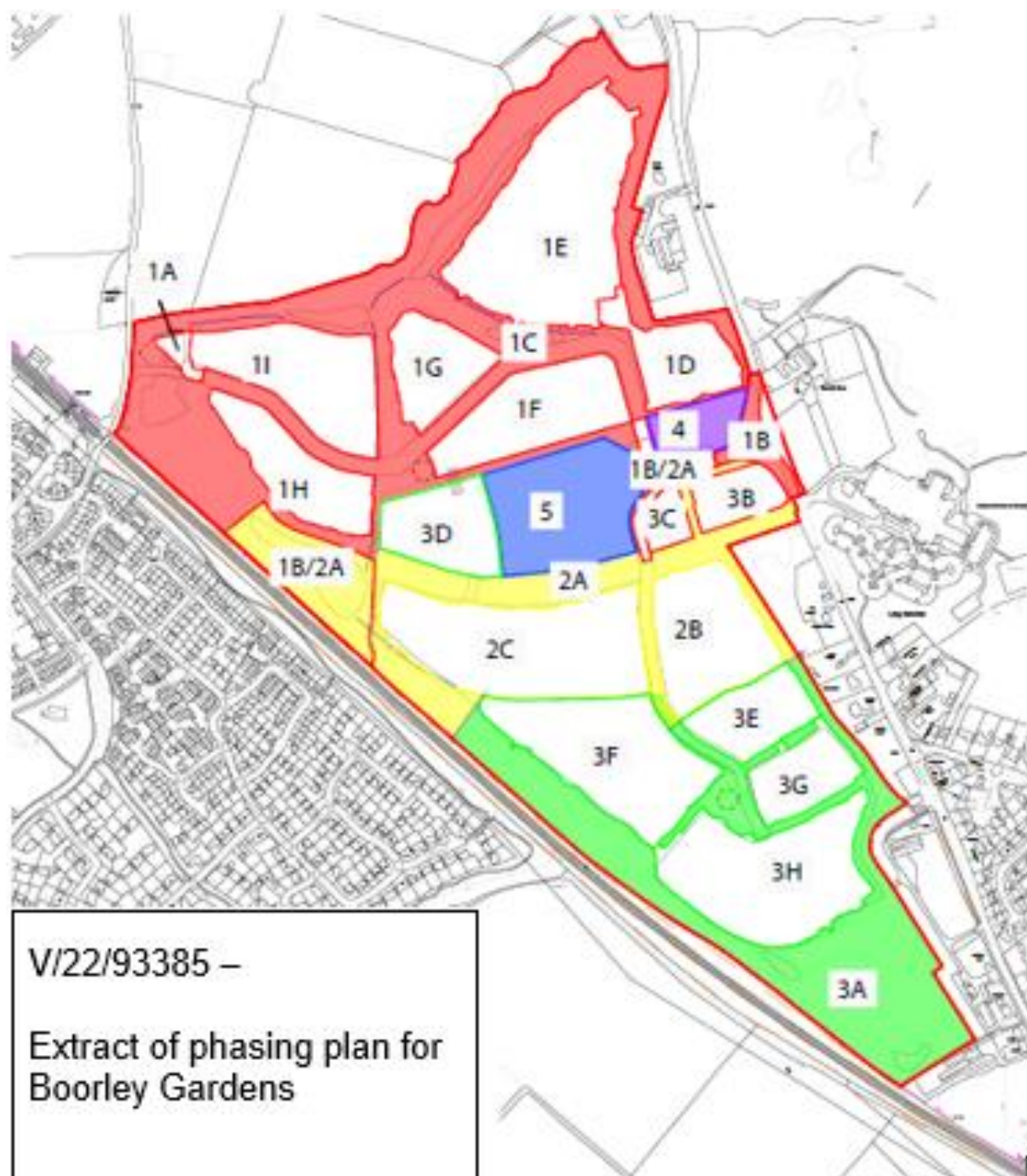
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups.

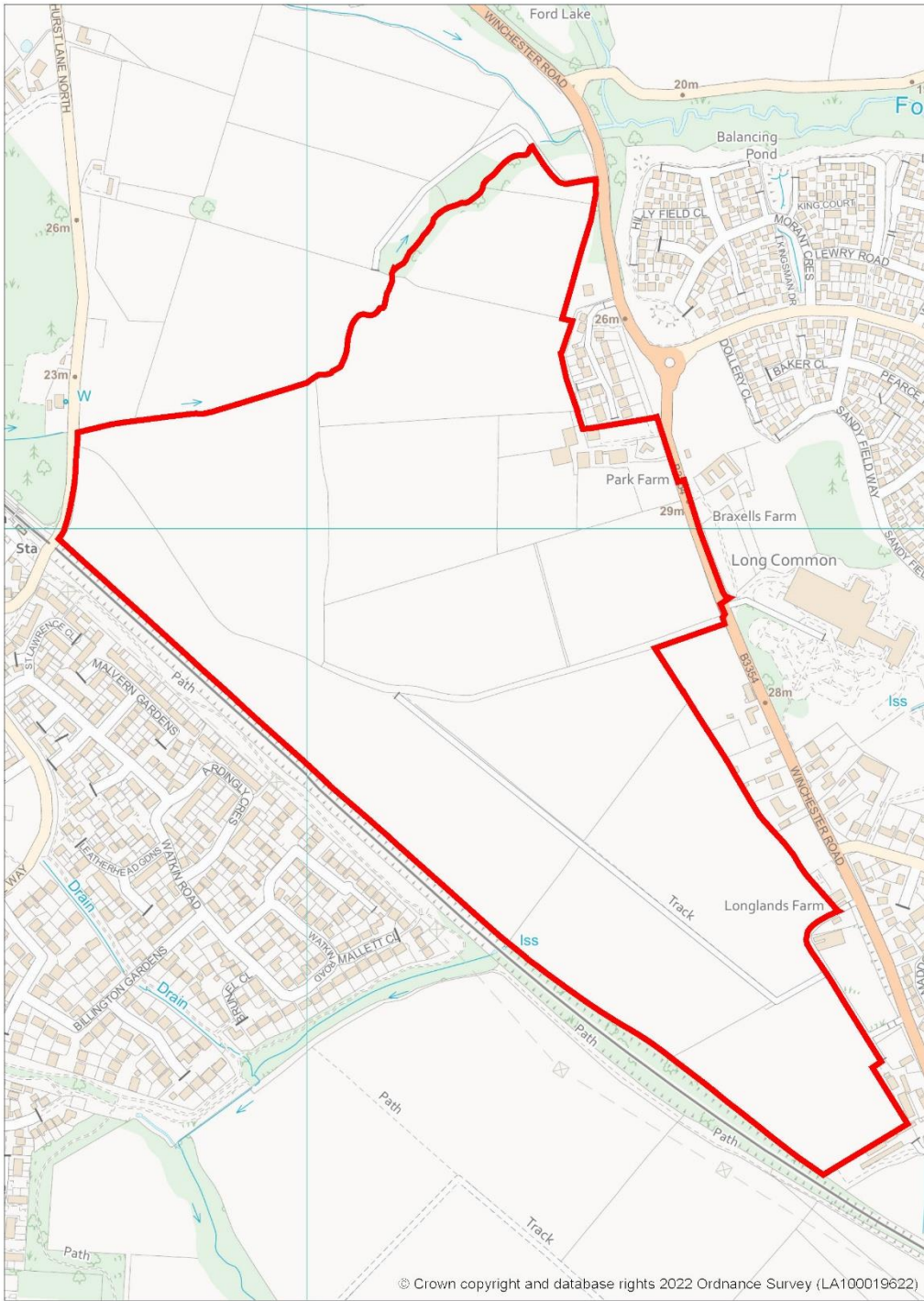
54. It is considered that this application does not raise any equality implications.

Conclusion

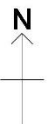
55. The proposed Deed of Variation to amend the original S106 legal agreement is considered to be acceptable. It would not alter the extent of development and the associated infrastructure but would alter the time by which some of these elements would need to be provided. It is considered that given the anticipated phasing and build out sequence for the development these amendments, together with the two new obligations, would ensure the proposals would not have a significantly detrimental impact on the building out of the development, the provision of associated infrastructure, or its impact on the surrounding area, sustainable travel, or the local highway network. It is therefore recommended that the proposed Deed of Variation be agreed.



V/22/93385



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Address: Land North West of Winchester Road
Boorley Green, SO32 2BX

Date: 06/09/2022 Scale: 1:6000