

**Application Number**

V/2017/0001

**Site Address**

Land At Brixham Road  
Yannons Farm (Areas C And D)  
Paignton

**Case Officer**

Mr Scott Jones

**Ward**

Blatchcombe

**Description**

Deed of Variation required to S106 to allow for nomination Agreement to be backdated - P/2015/0124/MPA.

**Executive Summary/Key Outcomes**

A minor amendment is sought to the wording of the S106 Legal Agreement that accompanies the grant of consent of 140 dwellings at Yannons Farm (Phases C and D).

The existing wording requires the registered provider of the affordable housing to enter in to a nomination agreement with the Council (in its capacity as Local Housing authority) at least 6 months prior to the first occupation of any affordable dwelling.

The affordable dwellings are due to be occupied and an amendment to the wording of the S106 to allow the nomination agreement to be completed prior to occupation rather than 6 months prior to occupation will allow families to move in to these properties without delay.

The amendment will have no material impact upon the S106 Legal Agreement.

Members are asked to agree the amendment.

**Recommendation**

That completion of a deed of variation of the S106 Legal Agreement that accompanies planning permission P/2015/0124 to allow a Nomination Agreement for affordable housing to be entered into prior to occupation of the affordable housing instead of 6 months prior to occupation is ratified.

**Statutory Determination Period**

17th July 2017.

**Site Details**

The application relates to Yannons Farm Phases C and D, which is a residential development site of 140 dwellings that is presently partly built out. The site is accessed off the Brixham Road and is set to the west of the earlier phases of residential development, the Yannons Farm Local Centre, and residential

development on the site of the former garden centre adjacent to the Brixham Road.

### **Detailed Proposals**

A minor amendment is sought to the wording of the S106 legal agreement that accompanies the residential development approved for Phases C and D granted under planning reference P/2015/0124.

The amendment seeks to modify the wording relating to the affordable housing provision and specifically the notification period for the Nomination Agreement for the Affordable Dwellings.

The current S106 states the following:

"The owner shall procure (Para 9.1) that the Registered Provider shall enter into a Nomination Agreement b/i at least 6 months prior to any of the Affordable Dwellings being Occupied and shall not cause or permit any of the Affordable Dwellings to be Occupied until the Nomination Agreement has been entered into.." (Para 9.1.1)

The amendment seeks to deletion of the words "at least 6 months" from para 9.1.1 and for the clause to read as follows:

"the Registered Provider shall enter into a Nomination Agreement prior to any of the Affordable Dwellings being Occupied and shall not cause or permit any of the Affordable Dwellings to be Occupied until the Nomination Agreement has been entered into".

### **Summary Of Consultation Responses**

#### Legal Officer:

The proposed amendment has no material impact upon the key areas of the S106 and the amendment will permit the affordable units to be occupied without undue delay.

Completion of the Nomination Agreement was delayed but has now taken place. Occupants of shared ownership houses were due to complete their purchases and move in on 26th May 2017 but were prohibited from doing so by the s.106 agreement as originally worded. After consultation with senior members of the committee a deed of variation in the terms requested was completed on 26th May 2017 in order to allow the purchases to proceed.

Recommend that the amendment is presented to members at the next available Development Management Committee for ratification.

### **Summary Of Representations**

None.

### **Relevant Planning History**

P/2015/0124 - Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except - Approved

P/2016/0610 - Submission of Reserved Matters relating to layout, scale, appearance and landscaping in relation to P/2015/0124 (Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for access) - Approved

### **Key Issues/Material Considerations**

#### **Principle and Planning Policy -**

The amendment will not affect the principal parameters of the development and there is no change to how the scheme complies with general principle and planning policy. Proposal retains the schemes compliance with strategic policies SS1, SS3, SS1 and SS12.

#### **Economy -**

The amendment will not negatively affect upon the economy. The amendment will permit dwellings within the development to be occupied without delay which may help support the vitality and viability of the Local Centre. The proposal retains the schemes compliance with Policies ss1, SS3, SS4.

#### **Closing the gap -**

The amendment will permit affordable housing units to be occupied without further delay, which will support social mobility in providing housing for those in need. Proposal retains the scheme's compliance with Policies H1, H2 and SS11 and SS12.

#### **Climate change -**

No impact.

#### **Environmental Enhancement -**

No impact.

#### **Accessibility -**

No impact.

#### **Vibrant Town Centres -**

The occupation of houses within close proximity of the Yannons Farm Local Centre will potentially support the vitality and viability of this centre. Proposal retains the schemes compliance with policies SS1, SS3 and TC2 of the Local Plan.

#### **Human Rights and Equalities Issues -**

The proposal will aid the provision of housing for those in need by removing a somewhat arbitrary 6 month time delay from this moment for occupation. Proposal

retains the scheme's compliance with policies H1, H2, and SS11 of the Local Plan.

**S106/CIL -**

The amendment will not materially alter the content of the S106 Legal Agreement.

**Conclusions**

The amendment allows the occupation of affordable units without undue delay.

It is requested that Members ratify the amendment in the deed of variation completed on 26th May 2017.

**Relevant Policies**

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